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HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1967

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STANDING COMMITTEE  
ON  
**HEALTH AND WELFARE**

*Chairman:* Mr. HARRY C. HARLEY

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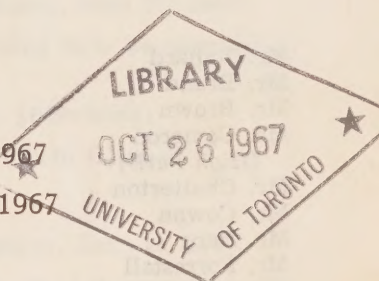
MINUTES OF PROCEEDINGS AND EVIDENCE  
No. 1

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THURSDAY, JUNE 29, 1967

TUESDAY, OCTOBER 3, 1967

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Respecting the subject-matter of

- Bill C-122, An Act to amend the Criminal Code (Abortion)
  - Bill C-123, An Act to amend the Criminal Code (Birth Control);
  - Bill C-136, An Act concerning the Termination of Pregnancy by Registered Medical Practitioners.
- 

APPEARING:

Mrs. Grace MacInnis, M.P., Sponsor of Bill C-122;  
Mr. Ian Wahn, M.P., Sponsor of Bill C-123; and  
Mr. H. W. Herridge, M.P., Sponsor of Bill C-136.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1967

HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1957

STANDING COMMITTEE  
ON

HEALTH AND WELFARE

STANDING COMMITTEE

Chairman: Mr. Harry C. Harley  
ON

HEALTH AND WELFARE

Chairman: Mr. Harry C. Harley

Vice-Chairman: Mr. Gaston Isabelle

and

Mr. Ballard  
Mr. Brand  
Mr. Brown  
Mr. Cameron  
(High Park)  
Mr. Chatterton  
Mr. Cowan  
Mr. Enns  
Mr. Forrestall

Mr. Howe (Wellington-  
Huron)  
Mr. Knowles  
Mr. Laverdière  
Mr. MacDonald (Prince)  
Mrs. MacInnis (Vancouver-Kingsway)  
Mr. Matte  
Mr. O'Keefe

Mr. Orange  
Mrs. Rideout  
Mr. Rochon  
Mr. Rock  
Mr. Rynard  
Mr. Simard  
Mr. Stanbury—(24).

(Quorum 13)

Gabrielle Savard,  
Clerk of the Committee.



## ORDERS OF REFERENCE

FRIDAY, May 19, 1967

*Resolved*,—That the following Members do compose the Standing Committee on Health and Welfare

Messrs.

Ballard,	Howe ( <i>Wellington-Huron</i> ),	Matte,
Brand,	Isabelle,	O'Keefe,
Brown,	Knowles,	Orange,
Cameron ( <i>High Park</i> ),	Laverdière,	Rideout ( <i>Mrs.</i> ),
Chatterton,	MacDonald ( <i>Prince</i> ),	Rochon,
Cowan,	MacInnis ( <i>Mrs.</i> )	Rock,
Enns,	( <i>Vancouver-Kingsway</i> ),	Rynard,
Forrestall,		Simard,
Harley,		Stanbury—(24).

TUESDAY, June 27, 1967.

*Ordered*,—That the subject-matters of the following bills be referred to the Standing Committee on Health and Welfare

Bill C-122, An Act to amend the Criminal Code (Abortion);

Bill C-123, An Act to amend the Criminal Code (Birth Control).

WEDNESDAY, June 28, 1967.

*Ordered*,—That the subject-matter of Bill C-136, An Act concerning the Termination of Pregnancy by Registered Medical Practitioners, be referred to the Standing Committee on Health and Welfare.

Attest.

LÉON-J. RAYMOND,  
*The Clerk of the House of Commons.*



## MINUTES OF PROCEEDINGS

THURSDAY, June 29, 1967.

(1)

The Standing Committee on Health and Welfare met this day at 2.27 p.m. for organization purposes.

*Members present:* Mrs. Rideout and Messrs. Brand, Brown, Cameron (*High Park*), Forrestall, Harley, Isabelle, Knowles, Laverdière, MacDonald (*Prince*), Matte, O'Keefe, Stanbury (13).

The Clerk attending, and having called for nominations, Mr. Knowles moved, seconded by Mr. Stanbury, that Mr. Harley be Chairman of the Committee.

There being no other nominations, Mr. Harley was declared elected as Chairman.

On motion of Mrs. Rideout, seconded by Mr. Matte, Mr. Isabelle was elected Vice-Chairman.

On motion of Mr. Forestall, seconded by Mrs. Rideout,

*Resolved*,—That a Subcommittee on Agenda and Procedure, comprised of the Chairman and 4 members to be named by him, be appointed.

At 2:32 p.m., the Committee adjourned to the call of the Chair.

M. Slack,

*Clerk of the Committee.*

TUESDAY, October 3, 1967

(2)

The Standing Committee on Health and Welfare met this day at 11.10 o'clock a.m. The Chairman, Mr. Harry C. Harley, presided.

*Members present:* Mrs. MacInnis, Mrs. Rideout and Messrs. Brand, Brown, Cameron (*High Park*), Chatterton, Cowan, Harley, Isabelle, Knowles, Laverdière, MacDonald (*Prince*), Matte, O'Keefe, Orange, Rock, Rynard, Simard, Stanbury (19).

*Other Members present:* Mr. Herridge, Sponsor of Bill C-136, Mr. Wahn, Sponsor of Bill C-123, and Mr. Prittie.

The Chairman announced the names of the Members who will act with him on the subcommittee on Agenda and Procedure, namely: Mrs. Rideout, Messrs. Isabelle, Rynard and Knowles.

The Committee proceeded to the consideration of the subject-matter of Bills C-122, C-123 and C-136.

The Chairman informed the Members of the National Film Board's offer to show a film on abortion to the Committee.

*Agreed*,—That this invitation be accepted and that it be extended to the other Members of the House.

The Chairman presented the First Report of the Subcommittee as follows:

"The Subcommittee on Agenda and Procedure recommends:

1. That 800 copies in English and 400 copies in French of the Committee's Minutes of Proceedings and Evidence be printed.

2. That the Committee meet on Tuesdays and Thursdays at 11 o'clock."

On motion of Mr. Isabelle, seconded by Mr. O'Keefe, the First Report of the Subcommittee was adopted.

The Chairman invited Mrs. MacInnis, sponsor of Bill C-122, to explain the purpose of the Bill.

Mrs. MacInnis made a statement and was questioned thereon.

Mr. Wahn, sponsor of Bill C-123, was invited by the Chairman to explain Clause No. 1 of his Bill, which calls for clarification of the present law and for its uniformity across the country. He was questioned thereon and retired.

The Chairman invited Mr. Herridge to explain the purpose of Bill C-136. Mr. Herridge made a statement and tabled, for the information of the Members, the following documents:

(a) Copy of Bill 229 (as amended by Standing Committee F) of the House of Commons of the United Kingdom, entitled "Medical Termination of Pregnancy Act 1967";

(b) Copy of House Bill No. 1426 of the General Assembly of the State of Colorado, relating to Abortion.

*Agreed*,—That a copy of the above documents be distributed to the Members of the Committee, and that they be printed as appendices to this day's proceedings. (*See Appendices "A" and "B"*)

Mr. Herridge was questioned.

At one o'clock p.m. the Committee adjourned to 11 o'clock a.m. Thursday, October 12.

Gabrielle Savard,  
*Clerk of the Committee.*

## EVIDENCE

(Recorded by Electronic Apparatus)

Tuesday, October 3, 1967.

**The Chairman:** Ladies and gentlemen, a quorum is now present and I call the meeting to order.

The members of the Subcommittee on Agenda and Procedure Messrs. Isabelle, Rynard, Knowles, Mrs. Rideout and the Chairman, met last week. Several matters were discussed which I would like to bring to the attention of the Committee. First, the National Film Board have offered to preview for the Committee, if it so wishes, a film on abortion that will be televised on the CBC some time in November. It runs approximately 27 minutes in time and really deals with the social needs for abortion rather than the medical aspects of abortion, if you want to call them that. I think the last two minutes of the film actually show the medical aspects of abortion while the rest of it deals with the problems involved in a pregnancy when somebody attempts to get an abortion, et cetera.

The Steering Committee felt that the offer should be accepted. It was suggested that the film would not be shown at an official meeting and any members of the Committee or of the House of Commons who wished to see this film could do so. We could notify all members of the date, time and place of the showing. Does anyone have any comment on this?

**Mr. Isabelle:** Will the showing be in the morning or in the afternoon?

**The Chairman:** The National Film Board have indicated their willingness to show this film to us at our convenience. We can either use their facilities or they will bring their equipment and show it here, if we wish. They will do whatever we want.

**Mr. Knowles:** We observe that it is in your hands.

**Mr. Prittie:** Mr. Chairman, I know I am not a member of this Committee but since the Committee is studying this subject it may be

interested in the proceedings of a similar Committee of the British House of Commons and the debates which took place there this past spring and summer. I have been in correspondence with Mr. David Steel, the Scottish M.P., who introduced a bill on this subject and which passed the British House of Commons just before the summer. I am sure the Library of Parliament has the *Hansards* of the British House of Commons and the House of Lords on this subject. There is a great deal there that I think would interest the members of this Committee.

**Mr. Rock:** Are you asking, then, that all members of the Committee be provided with copies of those debates?

**Mr. Prittie:** No, I am just saying that the information is available. It was very hotly debated and both sides were presented. I presume the Library of Parliament has the British copies of the *Hansards*.

**Mr. Rock:** Mr. Chairman, do you think this information could be provided for each member of the Committee?

**The Chairman:** We can check what is in the Library and see how voluminous it is. It may not be practical to reproduce it. Any member of the Committee who wishes to do so can find it in the Library.

**Mr. Herridge:** I have a copy of the bill; I was in touch with the same gentleman. I am going to provide this information when I make my comments.

**The Chairman:** I think Mr Prittie was referring to the complete debate that took place on the bill.

**Mr. Prittie:** Committee debates and other debates.

**Mr. Knowles:** I suggest that we be advised of the dates and pages dealing with this subject. This would save at least the necessity of making copies for all of us because if we have to make copies of ours as well for all the members, it will entail quite a lot of work.

**The Chairman:** We will try to find out the reference dealing with this subject and then anyone who wants to look into it can do so.

**An hon. Member:** Does the Library of Parliament have a copy?

**The Chairman:** Yes.

**Mr. O'Keefe:** Mr. Chairman, were both sides of the topic properly presented?

**Mr. Prittie:** They were.

**Mr. Rock:** Mr. Chairman, I am sure there is only one set of these debates in the Library and if any member starts using them when will the other members of the Committee have a similar opportunity unless we all receive copy?

There is no reason why this could not be done. This is a serious subject.

**An hon. Member:** Leave it with the Chairman and he will look into it.

**The Chairman:** Leave it with me and I will report at the next meeting.

**Mr. Rock:** Very good.

**The Chairman:** The actual report of the Sub-committee was that 800 copies in English and 400 copies in French of the Committee's Minutes of Proceedings and Evidence be printed and that the Committee meet on Tuesdays and Thursdays at 11 o'clock rather than at 9.30 o'clock as we did in the past. Is there any discussion on these two matters? If not, will somebody move the adoption of the first report of the Sub-committee?

**Mr. O'Keefe:** I so move.

**Mr. Isabelle:** I second the motion.

**The Chairman:** Is there any further discussion? Are all members in agreement?

**Some hon. Members:** Agreed.

Motion agreed to.

**The Chairman:** Is it the feeling of the Committee that so far as the film is concerned we should notify all members of the House of Commons that it is available for anyone who wishes to see it? I think this would be a reasonable thing to do.

**Mr. Isabelle:** Will that be in place of one of our meetings or at the same time?

**The Chairman:** No, I think we will arrange it separately so that any member of the House of Commons may view it. We will not make it an official meeting of the Committee.

Before we start today's business I might mention that in our possession now are either briefs or requests to present briefs from 10 different organizations or people concerning the problem of abortion. I will read the list quickly: the Anglican Church of Canada; the Canadian Bar Association; the Canadian Medical Association; the Catholic Physicians Guild of Manitoba; a Mr. R. G. Coleman of London, Ontario; the Emergency Organization for the Defence of the Unborn Children; Mr. John Hackett from Downsview; the Humanist Fellowship of Montreal; the Unitarian Church of Vancouver and the United Church of Canada. We have had correspondence from the other organizations and it is likely that we will be receiving more but these are the ones who have so far expressed a wish to present briefs. We have also received briefs and letters from people who do not wish to appear but who wish to have their opinions brought to the attention of the Committee.

Our next meeting will be on October 12 when we will hear a presentation from the Canadian Bar Association. After that hearing our next presentation will probably be by the Canadian Medical Association.

The purpose of the meeting this morning is to invite the sponsors of the three bills under consideration to make presentations to the Committee or to discuss their bills. In the order of presentation of these bills to the House of Commons, I will first call on Mrs. MacInnis, the sponsor of Bill No. C-122, to discuss her bill.

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, I doubt that anyone here in this room, with the possible exception of the medical men, has had any personal experience of this problem, but the fact that one has not been burned to death does not excuse one from realizing the importance of measures to be taken against fire. It seems to me that enough opinion now has been formulated on this subject in this country that inevitably several of us would be raising the matter at this session. My own Bill No. C-122 is a very brief and simple one, designedly. I wanted to raise the question in the simplest and most direct way, feeling sure that there would be no lack of detail if we proceeded. There are

only two main features to the bill, the first of which outlines the three conditions under which abortion should be granted. First:

that the continuance of the pregnancy would involve serious risk to the life or grave injury to the health, either physical or mental, of the pregnant woman;

second:

that there is a substantial risk of a defective child being born; or

third:

that the pregnancy is a result of rape or incest.

In addition to these three militating reasons why an abortion should be granted, there is the fact that it should be performed not only on the advice of the physician in attendance on the case, but also that of a second registered medical practitioner, the two acting in good faith upon the three reasons I have just outlined.

The reasons why I have put forward this bill are four in number and I wish to go into them one by one. First, our choice today is not between having abortion in Canada and not having abortion in Canada. The choice is between having a large and increasing number of illegal abortions taking place in this country, and having abortions made legal within these limited grounds and seeing that they are performed under conditions of proper medical competence and sanitation.

I have tried to do quite a bit of reading and talking with people on this matter. I have taken several examples of what I found.

In a very thoughtful article last May in one of the Toronto papers Jean Howarth pointed out that Dr. Donald M. Lowe, former chairman of the Ontario Medical Association's committee on therapeutic abortion, has estimated that between 25,000 and 75,000 criminal abortions are performed every year in Canada. This is a startling figure and Dr. Lowe goes on to say that more than half the admissions to gynaecology wards in Ontario hospitals in recent years have been because of abortions and that in 1963 there were about 20,000 admissions to gynaecology wards in hospitals in the province of Ontario because of illegal abortions having been performed prior to such admissions. These illegal abortions were not mainly performed on unmarried teenagers. More than 65 per cent of the women admitted to these gynaecology

wards were married. Our choice is not whether we will or will not have abortion; our choice is whether we will have abortions performed legally under proper conditions or whether we will continue the practice of back-street bungling and butchery which has been going on in this country and to which we have been closing our eyes.

I believe that a recent issue of the *Reader's Digest* set forth comparable conditions in the United States setting out some rather lurid detail.

I think this is very similar to the situation which we faced in this Committee last year in connection with birth control legislation, where it was seen that birth control information and contraceptives have been widely used across Canada for years and we, as Canadians, let the situation go on pretending that it did not exist and a number of people hoped that it would go away. It did not go away and we finally faced up to the situation that the choice was not between birth control information and contraceptives or no birth control information and contraceptives, the choice was between being honest and straightforward and leaving it to the individual conscience to decide whether he or she wanted birth control information and devices or whether he or she did not. I believe the same situation would apply in connection with abortion legislation. Nobody would be forcing abortion procedures on anybody else. If women desired to have abortions for the limited reasons set out under this bill I propose that they could have them legally on these grounds, and if they did not want them nobody would be forcing them to go through with it. The large number of illegal abortions taking place in Canada is my first point.

My second point is that Canada's laws on abortion are already a century old and date from the British laws of 1861. The legislation relies on the British act of 1861 which declares that all abortion is illegal and punishable by sentences up to life imprisonment. The Canadian Criminal Code has two sections dealing with this. Section 209 sets out that it is a crime to kill an unborn child except to save the mother's life. I believe in practice this has been broadened but that is the way the law reads. Section 207, as set out in the British act of 1861, flatly repeats that all abortion is illegal and punishable by terms up to life imprisonment.

In Britain, meanwhile, there has been legal clarification on a number of occasions. In

1929 there was a legal broadening of the act which enlarged its application very considerably. There was a test case in 1938 where a doctor accused of committing an abortion was acquitted, which had the effect of broadening the application of the law again.

In summary, my second point is the fact that our laws on abortion are based on the British act and they are out of date because of the fact that this act was passed in 1861.

The third point I want to make is that other countries throughout the world that we consider progressive have been moving, some of them earlier than others, but certainly moving very definitely in recent years. Reference was made earlier to the British legislation which went through in July of this year. The vote was interesting on that occasion. It passed the House of Commons with a vote of 167 to 83 and with the House of Lords with a majority of 127 to 21. A couple of things or course are interesting there. For one thing, their members of Parliament were evidently as much inclined to absenteeism as we are ourselves for various reasons.

**An hon. Member:** Not during a vote.

**Mrs. MacInnis (Vancouver-Kingsway):** Well, a vote of 167 to 83 is not an impressive total for the British House of Commons. One other very interesting point was that the House of Commons was less definitely in favour than was the House of Lords.

In France abortions are still illegal, although the number of women who go from France to Switzerland to obtain abortions is alarming the authorities. In France, where neither birth control nor abortion is legal, another rather horrifying poll speaks the will of that half of the population most directly concerned. The National Institute of Democratic Studies has estimated that illegal abortions equal live births in France. It is an interesting fact that la Commission des Affaires Culturelles, familiales et Social de l'Assemblée Nationale has recently recommended that both contraception and abortion on strictly limited grounds be made legal.

In the United States a number of the states are moving. Colorado passed its legislation in April of this year. California is conducting vigorous campaigns. My third point is that other countries are moving.

My fourth point is that I believe Canada is ready for a change in our abortion laws. The

Canadian Institute of Public Opinion, the Gallup Poll, conducted a survey in 1965 and the results showed that 71 per cent of Canadians wanted to see a change in the present abortion laws. Evidently there were no questions as to the nature of that change, but the fact that two years ago 71 per cent of the Canadians polled wanted to see a change is symptomatic of the need for change. Those of you who heard the "Cross-country Check-up" program several weeks ago will have been as surprised as I was with the overwhelming number of those who phoned in on that program who wanted to see a change made in the abortion law.

I believe the change in the abortion laws ought to be made as we recommended in this Committee in connection with birth control—on the basis of individual conscience—and that no one should be obliged to submit to abortion if she does not want to do so. But, on the other hand, no one should be denied it on the basis of these grounds.

Secondly, I think it is high time that we ended a bad law. If you remember, we had certain religious groups who were objecting to birth control for themselves and for their own followers, but who said that they wanted the law cut out because it could not be enforced, and that it was a bad thing to have a law on the statute books that could not be enforced.

Thirdly, I think it is time we ended the danger and risk of the backstreet abortion racket that goes on in this country.

Fourthly—and this is the positive side—I think it is time that we began to work toward quality population in this country. We are beginning to hear about the need for improving population, and certainly to have children born into a country as the result of rape or incest is not going to be too helpful when one considers the environment that they are likely to encounter. Also, I want to say that if conditions like those of thalidomide babies or congenital diseases are known ahead of time, I do not think it is a good thing for Canada to allow those beings to come into the world.

My last reason for recommending a change is that I think it is time we gave parents a chance. I think that women ought to have far more control over what happens to them when monstrosities are to be born. I have known women who have had to put up with lifetimes of that sort of thing, and it would

have been far far better, both for them and for those poor little deformed creatures, to have never been brought into the world.

These are my reasons for putting forward this bill at this time, Mr. Chairman.

**The Chairman:** Thank you, Mrs. MacInnis. Does the Committee wish to question Mrs. MacInnis now, or do you want to wait until the three sponsors have spoken and then do it collectively?

**Some hon. Members:** Now.

**The Chairman:** Everyone wants to do it now. Mr. O'Keefe?

**Mr. O'Keefe:** Thank you, Mr. Chairman. Mrs. MacInnis, I disagree completely on almost every point you raised, and I suggest to you that we should be considering just what makes a pregnancy unwanted, instead of what to do about an unwanted pregnancy. Would you agree with that?

**Mrs. MacInnis (Vancouver-Kingsway):** Well, let us hear what else you have to say on this subject as it is not clear yet.

**Mr. O'Keefe:** Shall I repeat it?

**Mrs. MacInnis (Vancouver-Kingsway):** No, no, explain it.

**Mr. O'Keefe:** I noticed no concern at all, Mrs. MacInnis, in either your bill or your comments for the rights of unborn babies. You refer to monstrosities and "these beings". Are you not aware that deformed babies have been born who have turned out to be geniuses? Steinmetz is a glaring example, but I shall have a long list pretty soon. Would you deprive those babies of life?

**Mrs. MacInnis (Vancouver-Kingsway):** I have said that I would have this legislation on a permissive basis. Where people believe that it is better to produce a monstrosity with the danger, or the likelihood, or the chance of its possibly becoming a genius, I would not interfere with this.

**Mr. O'Keefe:** And who do you think should make this decision?

**Mrs. MacInnis (Vancouver-Kingsway):** I think that the mother should have the right to make that decision in consultation with or under the jurisdiction of two qualified medical practitioners.

**Mr. O'Keefe:** Do you not think that the community has an interest?

**Mrs. MacInnis (Vancouver-Kingsway):** The community, in my view, has an interest in normal human beings, and in getting the best quality and kind of people it can.

**Mr. O'Keefe:** And not in deformed human beings?

**Mrs. MacInnis (Vancouver-Kingsway):** Right.

**Mr. O'Keefe:** I will let it go at that, Mr. Chairman. There are other members who want to ask questions, I am sure.

**Mr. MacDonald (Prince):** There are just two questions I would like to raise with Mrs. MacInnis. First of all, she suggests that the choice is not as to whether or not we will have abortions, but the choice is as to whether or not they will be legal or illegal and all that illegality implies. Now, under the conditions you have indicated to us here in your bill, Mrs. MacInnis, have you made any attempt to ascertain what percentage of abortions would be covered under these three conditions? In other words, how many of the yearly illegal abortions that are taking place across this country would be effectively eliminated were these three conditions to be put into law?

**Mrs. MacInnis (Vancouver-Kingsway):** No, but I have seen some figures on that. Probably some of the medical men here would be in a better position to answer that one than I.

**Mr. MacDonald (Prince):** It seems to me that this is a pretty crucial question, because unless we are sure that by including these conditions we are going to tackle the problem, we have really not done very much. We may have made it easier in some instances, but if the bulk of the problem still exists, then we have to face it on another plane or with another set of conditions.

**Mrs. MacInnis (Vancouver-Kingsway):** I think that when our medical witnesses appear before us we could very well inquire about these factors. I think they would be the ones who would have the most up-to-date information on that.

**Mr. MacDonald (Prince):** My second question is this: You suggested that the Committee's attitude toward this particular problem of abortion should be that which it adopted in connection with birth control—in essence, leaving it to the individual's own conscience. But this seems to be a little contradictory and I do not think that comparison

is a very good one. You are not, in effect, leaving it to the person's own conscience. In other words, you are not making it subject to the decision of the parents involved. You are in fact saying that first, there will have to be not one doctor, but two, giving approval; and second, that it must fall within these three particular conditions. I want to be clear on this. Are you, in effect, making a comparison? Are you now going beyond what you have spelled out here? Or are you limiting it to these three specific instances?

**Mrs. MacInnis (Vancouver-Kingsway):** As I visualize it, it would apply if a woman wanted to have an abortion if she were pregnant under one of these conditions. If she belonged to a certain kind of religious faith or maybe some other category, she would not ever consult a doctor about it in the first place. She would just go through with the pregnancy or else have an illegal abortion if she were so disposed. But where a woman thought she came within one of these categories and wanted to have an abortion, then I think she would go to her doctor, and if the doctor and another registered medical man thought that it was legal and proper for her to have that abortion, then she would have it. I do not know if that answers your question or not, but to my mind that does leave it pretty largely to individual conscience with, of course, the safeguards on individual conscience that we would put in this bill.

**Mr. MacDonald (Prince):** Well, you treat these three conditions with some seriousness, but I am wondering what attitude you take with regard to deprived homes—homes in which there is a good deal of poverty where there may have been a steady succession of children and the mother finds herself pregnant again and desires in that case to have an abortion realizing that she cannot possibly give adequate care to another child. There may be cases where the parents have become separated after the mother has become pregnant. A number of other instances could be mentioned. Do you have any provision for these people, or do you think that they should not be considered in the scope of this particular—

**Mrs. MacInnis (Vancouver-Kingsway):** I think that in this bill, if you look at subsection (2) (a):

that the continuance of the pregnancy would involve serious risk to the life or grave injury to the health, either physical or mental, of the pregnant woman;

there is quite a bit of leeway in that. This still does not go as far as a great many people would like to see it do; for instance, where in any way it would interfere with the family life in general or the capacity of the woman to do other things, and so on. This bill does not cover that. I think myself that it is a much wiser thing to begin with a piece of legislation for which the country is ready. I think that very large sections of the country are ready for this degree. I would like to try this out and then, if we found that the grounds needed widening, I would leave that for some future occasion.

We have two abortion societies that I know of in Canada now: one in London, Ontario, and one here. We will also be hearing from the Humanist Society in Montreal and from other groups that are interested. But there are two societies, both of whom have requested these terms exactly as I have put them. It seems to me that this is what we are ready for at this time in Canada, and I think it is very evident from what I have said that it would be on the basis of individual conscience whether or not the person, in the first instance, even wanted to apply for it or use it.

**Mr. MacDonald (Prince):** In other words, you would be prepared to give a fairly broad interpretation to section (A), as suggested in this bill?

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, but obviously it is not as broad as the world. There are restrictions in it.

**Mr. Stanbury:** Mrs. MacInnis, I am with you, I think, most of the way on your argument but I run into difficulty when you mix your motivations for this bill between the need to recognize the choice of individuals and what apparently is also motivation behind your bill, with the feeling that society should be protected against a low quality of child. I am frankly a bit shocked by this. I would appreciate some further development of your idea on what I think you refer to as the need for us to develop a quality population. I think that was the term you used.

**Mrs. MacInnis:** Yes.

**Mr. Cowan:** They would all be Liberals, then.

**Mrs. MacInnis:** That will be manifested—

**Mr. Stanbury:** While your bill does not specifically indicate it, this to me raises the spectre of "someone up there"—perhaps

members of Parliament are among those that you feel should make such decisions—is going to decide for Canadians what is and what is not quality among our children, and what we should produce and what we should not produce. That seems in conflict with your original motivation of allowing people to protect themselves from damage to their own family and allowing them to make a personal choice according to their own conscience. Do you mind explaining a little further your thoughts on this need to ensure that we have a quality population?

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Stanbury, I am not a lawyer, although you are.

**Mr. Stanbury:** I used to be but I do not have time for it any more.

**Mrs. MacInnis (Vancouver-Kingsway):** The fact is that it will not be what I think is set down on this paper. My motivations and ideas in putting forward this matter are not what are going to go into the legislation.

**Mr. Stanbury:** We have to understand the reasons for it.

**Mrs. MacInnis (Vancouver-Kingsway):** Let me make it perfectly clear that no matter if I did want—which I certainly do not—members of Parliament or anybody else going to individual families and saying, “You will have this child. You will not have that child”. I certainly do not want that. However, even if I did, there would be no earthly way of my getting it under the terms of this bill. That is the thing I wish to make clear.

Now, if you want my personal thinking behind it, that is something else, but that has nothing whatever to do with the terms of this bill. It is straight and forward. We say an abortion can only be granted if two registered doctors acting in good faith say so and there is danger of grave injury, and so on, to health and, secondly, there is danger of a badly defective child being born and, thirdly, the pregnancy is the result of rape or incest.

Now, I will be very glad to explain my own thinking but, you must remember, that will not and cannot affect the terms of this bill. I want that to be clearly understood.

My own thinking is that there are different grades or, let us say, degrees of thinking among the people of this country. Some people honestly believe that every child that is conceived ought to be brought to life no mat-

ter what the result may be. Other people do not; they feel it is a tragedy and, even more than that, if it can be prevented it is a crime for people, or for themselves, to bring something into the world that will have no chance at life or living as we understand it. I have seen such vegetables in our mental hospitals, I know what they look like and I know they have no chance of a normal life. Because we are a democratic country I think it is very important that we provide a freedom of choice. In my thinking, I would like to have this legislation available for those people who in my opinion have reached the stage where they want to have normal children and they can use this legislation to prevent accidents happening in the early stages of pregnancy.

On the other hand, if there are people who do not believe in this they do not have to do it. In Canada I would be content to leave it to the development of public opinion, which has already moved along on a number of matters to determine the rate at which people's thinking proceeds. That is all that is behind my thinking in this regard. I suggest that people be free to move along the lines of being responsible for producing human beings with a chance for living in the fullest sense of the word, to live fully, and that others who do not have that type of belief shall not have violence done to their conscience.

**Mr. Stanbury:** Do you see this as a first step toward the development of public opinion to the point where one of the aims of public policy will be to produce a higher quality population than we presently have and to rid ourselves of these physically handicapped babies that you say are not good for Canada?

**Mrs. MacInnis (Vancouver-Kingsway):** I think public opinion is moving in the direction where it realizes that it is not, in every case, desirable for two people to produce a creation. I think we are moving that way. Not long ago there was a lawsuit in the United States where a boy who was handicapped in many serious ways I believe sued the doctor for bringing him into the world because it was so dreadful.

**Mr. Stanbury:** Do you see our moving towards a situation where the government will decide who can mate and who cannot?

**Mrs. MacInnis (Vancouver-Kingsway):** No. I am not dealing with science fiction at this stage at all. All I want to do is to update a law which is based on conditions as they were in 1861. We are living in 1967.

**Mr. Stanbury:** I think there is a great deal of merit to your bill. I am concerned, from what you said, that there seems to be a step in the direction of a sort of big brother approach to people's problems.

**Mrs. MacInnis (Vancouver-Kingsway):** It is just the reverse.

**Mr. Stanbury:** From your explanation of the bill it seemed to be that rather than freeing people to make their own choice.

**Mrs. MacInnis (Vancouver-Kingsway):** I have learned all my life, Mr. Stanbury, if I want a loaf of bread to take half a loaf if I cannot get a whole loaf and if I cannot get that, to take a few crumbs, knowing that each attempt will strengthen me to get a little more of the bread later on.

**Mr. Stanbury:** This is what concerns me. It seemed to me that this was just a crumb on the way to a loaf of bread, which was a bit repugnant to me.

I want to ask about one specific part of the bill which bothers me, and that is clause (c) which, in effect, asks medical practitioners to come to the conclusion—which is a legal one, I think that the pregnancy is the result of rape or incest. I wonder if you could explain that a bit. I think it would be terribly difficult if medical practitioners were placed in a position where the only possible way in which they could arrive at that conclusion would be by the word of their patients. It implies coming to conclusions which would, in effect, convict third parties without a trial, unless you are going to wait for a trial, in which case it might be too late for a therapeutic abortion.

**Mrs. MacInnis (Vancouver-Kingsway):** The law was passed in Colorado in April. Just two or three weeks later, I believe, there was a case where a man was convicted of rape against a child who was even under age, and this law was applied to get her an abortion. That is one case that I know of where this was done. The story appeared in *Time*, actually, and I have the clippings. I feel sure that the law and the medical profession can find ways and means, if rape or incest is indicated, by which the process of getting the abortion could be speeded up. There are difficulties but they can be resolved. There must be cases where it is within the knowledge of either the law or medicine that the pregnancy is the result of either rape or incest. We have had such cases. It is a matter of having them dealt with quickly.

**Mr. Stanbury:** You would not wait for a trial to establish whether or not rape or incest had occurred?

**Mrs. MacInnis (Vancouver-Kingsway):** I think it would be too late for abortion in that case.

**Mr. Stanbury:** I think so, too. But you would be satisfied to have doctors come to a conclusion that courts have not yet come to?

**Mrs. MacInnis (Vancouver-Kingsway):** I think that doctors would very frequently be able to consult legal people in connection with it, too.

**Mr. Stanbury:** Would they consult judges, lawyers or justices of the peace?

**Mrs. MacInnis (Vancouver-Kingsway):** I do not think it necessary to go into all these details.

**Mr. Stanbury:** I consider this very important, and I am curious about how it would work. I must say I cannot imagine how it must say I cannot imagine how it would.

**Mrs. MacInnis (Vancouver-Kingsway):** Well, neither do I but let us wait until we get the details of the British legislation. I have been over it, too. There must be such details in the legislation which has just been passed.

**Mr. Stanbury:** Do you not think that in that situation it might perhaps be better brought under the terms of subsection 2(a), that if a patient has suffered rape or incest it might well be interpreted that the continuance of the pregnancy would involve serious risks to her physical or mental health? To ask doctors to come to legal conclusions seems to me to be rather dangerous.

**Mr. Knowles:** May I ask Mr. Stanbury if the phrase "of the opinion that the pregnancy is the result of rape or incest" is equivalent to a legal conclusion?

**Mr. Stanbury:** I have suggested that I am interested in Mrs. MacInnis' opinion on how the doctor would arrive at this opinion, and for the life of me I cannot imagine how he could on the word of the patient. Every patient who wanted an abortion would undoubtedly advise her doctor that she had been the victim of rape or incest. It would be the simplest thing in the world.

**Mrs. MacInnis (Vancouver-Kingsway):** I do not know how this can be made legally watertight, but our newspapers inform us every

day of young girls being raped, and it is happening all over the country. If the case gets into the press I am quite sure that the police have the details. It should not be impossible to work out safeguards for getting the information to doctors.

**Mr. Chatterton:** I have a supplementary question. What would be the position if such an abortion were allowed and the person charged with rape were subsequently acquitted by the courts?

**Mrs. MacInnis (Vancouver-Kingsway):** I am not Solomon. I do not know.

**The Chairman:** I hope everyone realizes that there are certain medically-accepted proofs of rape. There is the question of who performed the rape. There are certain medical proofs that might or might not be present in any particular case. It has nothing to do with the legal opinion whether a certain person did it or not. But those facts are not present in every case, of course.

**Dr. Isabelle,** have you a supplementary question?

**Mr. Isabelle:** No.

**The Chairman:** Mr. Stanbury?

**Mr. Stanbury:** No; I think I have pursued this as far as Mrs. MacInnis can take me today.

**Mrs. MacInnis (Vancouver-Kingsway):** Further.

**Mr. Rock:** Mrs. MacInnis, in your interesting exposé you mentioned two states—California and another—which are—

**Mrs. MacInnis (Vancouver-Kingsway):** Colorado has the legislation. California has not yet passed it.

**Mr. Rock:** You also mentioned that there is no such legislation in France and that many women there go to Switzerland for an abortion. Do you mean Switzerland, or do you mean Sweden?

**Mrs. MacInnis (Vancouver-Kingsway):** I mean Switzerland.

**Mr. Rock:** Switzerland. I understand, of course, that in Sweden there have been changes—

**Mrs. MacInnis (Vancouver-Kingsway):** Sweden has legislation very much along these lines. That is, there are limited grounds on which abortion is permitted.

**Mr. Rock:** Do you feel that many American and Canadian girls take vacations in Europe for the purpose of visiting Sweden?

**Mrs. MacInnis (Vancouver-Kingsway):** I would not know. About a year or so ago there was a very much publicized case of an American woman who went to Japan, I understand. I believe that for about a \$1,000 economy fare and \$30 for the operation she secured an abortion there. I doubt that there would be any records anywhere of the others.

**Mr. Rock:** Do you feel that at the moment the rich are able to have legal abortions in other countries and others are not?

**Mrs. MacInnis (Vancouver-Kingsway):** I think that would be obviously possible.

**Mr. Rock:** Do you feel that if we take a more liberal attitude towards abortion in this country we would have girls from the United States taking vacations in Canada for this purpose? Their laws are not as liberal as ours would be if we passed this legislation.

**Mrs. MacInnis (Vancouver-Kingsway):** I do not know. I think the situation in the United States is such that they have enough places for people to go to without crossing the border, if they so desire.

**Mr. Rock:** Do you feel that when a single girl becomes pregnant the pregnancy itself can create a mental condition and, therefore, she becomes qualified under your bill? That is, of course, depending on the doctor.

**Mrs. MacInnis (Vancouver-Kingsway):** That would not be for me to decide. That would be for the doctors to decide.

**Mr. Rock:** Do you feel that there is a mental condition as soon as the single girl finds out that she is pregnant?

**Mrs. MacInnis (Vancouver-Kingsway):** I would not know anything about that. It would be for doctors and psychiatrists to decide that.

**Mr. Rock:** Will you have some doctors and psychiatrists testifying before this Committee?

**The Chairman:** Some doctors will be here, and it would be a good idea to have a psychiatrist also. I am not looking at any particular member of the Committee!

**Mr. Brand:** Mrs. MacInnis I understood from what you said that you thought that by

enacting the sort of provisions which you are suggesting we could do away with the illegal abortion racket. Am I correct?

**Mrs. MacInnis (Vancouver-Kingsway):** Or reduce it. I do not suppose that we can stop it, but we can certainly cut it down.

**Mr. Brand:** Do you know that there are no therapeutic abortions done now in Canada?

**Mrs. MacInnis (Vancouver-Kingsway):** Oh, yes, there are.

**Mr. Brand:** The provisions of your bill, I presume, then, would be related more to (b) and (c) than to (a)?

**Mrs. MacInnis:** Well, (a) is probably wider than would be the common practice with therapeutic abortions at the moment.

**Mr. Brand:** Do you really think so?

**Mrs. MacInnis (Vancouver-Kingsway):** I do, from what I have been able to learn and read.

**Mr. Brand:** I do not think it is, you know. You did give us the interesting statistic from one study done in Ontario that of the abortions performed sixty-five per cent of them were on married women.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes.

**Mr. Brand:** David MacDonald touched on what I think is the most important part of this whole business, the fact that 65 per cent of the women are married. Do you think many of them would be related to the problem of the substantial risk of a defective child or pregnancy as a result of rape or incest?

**Mrs. MacInnis (Vancouver-Kingsway):** I would not know. Probably more of them might fall into the first category.

**Mr. Brand:** The defective child being born?

**Mrs. MacInnis (Vancouver-Kingsway):** No, the first category—(a).

**Mr. Brand:** Under (a)?

**Mrs. MacInnis (Vancouver-Kingsway):** Probably.

**Mr. Brand:** Which, would you not agree, is, to a degree at least, presently covered under section 209(2) of the present Criminal Code?

**Mrs. MacInnis (Vancouver-Kingsway):** It is the opinion of the abortion societies that have

been formed and of numerous people I have heard and of social workers who have discussed this that they do not think that it covers it now.

**Mr. Brand:** Do you know of any doctors who have been sentenced to the penitentiary for doing a therapeutic abortion under this particular section?

**Mrs. MacInnis (Vancouver-Kingsway):** No. The only case that I know about is one that was acquitted in Britain in 1938 or whenever it was.

**Mr. Brand:** Yes, *Rex v. Byrne*.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes.

**Mr. Brand:** That was the 14 year old rape case; that is getting down to (c); I am talking about (a). So, in actual fact, it would appear from the statistics you have presented that a lot of these abortions are being done for convenience rather than anything else.

**Mrs. MacInnis (Vancouver-Kingsway):** Oh, I would not say that; no, I would not say that.

**Mr. Brand:** Certainly in my experience in practice this is true.

**Mrs. MacInnis (Vancouver-Kingsway):** Well, maybe that is from your experience, but—

**Mr. Brand:** ...for the convenience of the mother who decides she has had quite enough children, or that it is interfering with what she is doing. This is certainly one of the commonest causes you hear, and this is what concerns me, of course, Mrs. MacInnis. I will not go into the things that bothered Mr. Stanbury; they bother me too—the thought of setting up a super race in Canada—

**Mrs. MacInnis (Vancouver-Kingsway):** Well, I do not know where you will find that in the bill. What is bothering you is what is in here, in my head, but it is not what is on this paper.

**Mr. Brand:** What is bothering me is what you have said.

**Mrs. MacInnis (Vancouver-Kingsway):** I know, but that is not on the paper, and I would urge you to realize that when it is legislation it is what is on the paper that matters.

**Mr. Brand:** But the fact of the matter, you would have to agree, is that even by so doing we are not going to cut out illegal abortions really, are we?

**Mrs. MacInnis (Vancouver-Kingsway):** Cut down, anyway.

**Mr. Brand:** You think we will cut down to a degree?

**Mrs. MacInnis (Vancouver-Kingsway):** Well, no matter what we do with alcohol control or tobacco control we are not going to cut out either one of those habits, but if we could help them—

**Mr. Brand:** Oh, that is a nasty one. Would you agree then that if we did amend the Criminal Code to allow the sort of things as suggested in your bill, then, perhaps, the full majesty of the law should be brought to bear against those—and certainly this is not being done now—who perform illegal abortions?

**Mrs. MacInnis (Vancouver-Kingsway):** If a thing is illegal I think the law should be enforced.

**Mr. Brand:** Do you agree that it is being enforced now?

**Mrs. MacInnis (Vancouver-Kingsway):** Obviously not or we would not be having all these illegal abortions.

**Mr. Brand:** Fine, thank you very much.

**The Chairman:** Dr. Isabelle.

**Mr. Isabelle:** Mrs. MacInnis, there is one general observation I want to make on your bill. First, I am not too sure that we can achieve a change. I am for change, but how are we going to achieve this change? Another thing is this: you are aware of the fact that for the past 25 years many countries, especially the Scandinavian countries, Russia, and some other countries, have widened their legislation on legal abortion and since this legalization has been brought along, strangely enough there has been an increase of illegal abortions in those countries. This is something that we cannot understand, but it could be easily understood in the light of Mr. Stanbury's point of view that therapeutic abortion committees formed of judges, lawyers, doctors, and people like that sometimes never agree on these matters, so that the rate of therapeutic abortions has fallen and that of illegal abortions has increased.

Recently you were talking about Colorado; they have trouble with the same thing. They do not know how to put the mechanism in place in order that legal abortions could take place. And you are talking about California. California has passed legislation three times

to bring about a legal abortion law, and three times it has been repealed. So there are certainly some things that we cannot touch that we feel need to be changed, but how are we going to do it? I think the very basic principle of all these discussions will rest on the definition of the words. We are not talking the same language. A medical man, a layman, a judge and anyone who does not belong to the medical profession, sometimes use words that do not mean the same thing in the mind. So unless we agree from the very beginning on what we are talking about, we will never get anywhere. This is why the United States and the Scandinavian countries in Europe have failed in bringing in new legislation that would be good legislation, but unfortunately it cannot be implemented.

**Mrs. MacInnis (Vancouver-Kingsway):** This is precisely why I was so pleased that these three bills have been referred to a committee this year, because if you remember, Dr. Isabelle, when we began our sessions for discussing the birth control legislation we were talking very, very many different languages in the committee. Then, at the end, after all the witnesses and all the discussions, we were able to find an accommodation. We found out that there was ground on which we did agree, and we were able to come to an almost unanimous report.

I am not devoted to the terms of this particular bill, but it is my hope that when we get together we can take all the bills we have and again find areas where we do agree and widen those areas. None of us will get 100 per cent what we want but if we can get a suitable change, that is all I want.

*(Translation)*

**Mr. Maite:** In sub-paragraph (a) you say: "—would seriously endanger the physical or mental health of the woman".

**Mrs. MacInnis (Vancouver-Kingsway):** Yes.

**Mr. Maite:** Can you explain the word "mental"? Is fear of childbirth a mental reason? Who would determine the mental reason?

**Mrs. MacInnis (Vancouver-Kingsway):** This is a question for doctors; I am not going to lay down these conditions, but rather two doctors must decide if it is dangerous for the mother, for her mental or physical health. It is not my opinion which is important, but the opinion of two doctors.

**Mr. Matte:** Is this an easy thing to determine, doctor, mental condition?

(English)

**Mr. Isabelle:** In medicine I think that two doctors are not enough to decide on something important like this, but when you are three, three is a crowd.

**The Chairman:** Are there any other questions of Mrs. MacInnis? Mr. Cowan.

**Mr. Cowan:** I would like to ask Mrs. MacInnis this: do you know that picture of Queen Victoria in the foyer of the Senate?

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, the one with her arm short.

**Mr. Cowan:** That is the one. The guides point out that it is the only known painting where her short left arm is visible; she used to keep it concealed after that. Do you think that she should have been born?

**Mrs. MacInnis (Vancouver-Kingsway):** What was all right for 1861 is not all right for 1967.

**Mr. Cowan:** Do you not think that Queen Victoria would have been all right in 1967?

**Mrs. MacInnis (Vancouver-Kingsway):** I am not quarreling over things that happened over 100 years ago; I am talking about 1967.

**Mr. Cowan:** I was talking about defective births; they were the words used in—

**Mrs. MacInnis (Vancouver-Kingsway):** I know, but you and I were not around to deal with Queen Victoria's parents whereas we are around to deal with the people today.

**Mr. Cowan:** The question I wanted to ask is since you are so strongly in favour of birth control, if my memory serves me right, why do we need these abortion rules if you have your way on birth control?

**Mrs. MacInnis (Vancouver-Kingsway):** We would not, if birth control could be carried out wisely and well, but there will always be cases where it will not.

**Mr. Cowan:** Well, why not go right on through with your birth control measure first and then bring up abortion later? Why bring up the two practically simultaneously?

**Mrs. MacInnis (Vancouver-Kingsway):** Because there are a great deal of arrears to be dealt with in this country and it will take both kinds of measures to do it.

**Mr. Cowan:** Well, do you want abortions for those cases where the rubber is torn?

**Mrs. MacInnis (Vancouver-Kingsway):** Well, again, we have to deal with various forms of shortcomings in different ways, and I do not think torn rubber is the whole story.

**Mr. Cowan:** Well, I gathered the impression a year ago that with planned parenthood and birth control we would be in a perfect world.

**Mrs. MacInnis (Vancouver-Kingsway):** Well, we do not have them, and I do not think my hon. friend is helping us to get them, or did help us to get them either.

**Mr. Cowan:** And I will not either. But why not carry the one through? To me, one countermands the other. If you have birth control you do not need the proposed abortion law; and if you are going to have the abortion law then you would not need the birth control measure. Why ask for both?

**Mrs. MacInnis (Vancouver-Kingsway):** Because people are human and they fail sometimes. If they fail in one regard there ought to be a second chance in some cases.

**Mr. Cowan:** Is it possible for doctors to tell the sex of a child before it is born?

**Mrs. MacInnis (Vancouver-Kingsway):** We will have to ask a doctor how far in advance they can do that because I do not know. We have several doctors and maybe they could tell you.

**Mr. Cowan:** With a doctor as Chairman, might I be allowed to advance the statement that it is impossible to foretell the sex of a child until birth. This is generally accepted.

**The Chairman:** No, this is not completely true, with certain tests.

**Mr. Cowan:** What percentage of it is true then?

**The Chairman:** The tests that make it possible to foretell the sex of a child are not in common usage; I think that is the proper terminology to use. It is possible, but the tests are not normally carried out on every pregnancy.

**Mr. Cowan:** Oh, I know that for a fact, but I would make the statement that it is impossible to tell the sex of a child before birth, and I was wondering how they can tell if a child is going to be born defective before birth.

**Mrs. MacInnis (Vancouver-Kingsway):** Would one of the medical people like to answer that? That seems to be a technical question.

**The Chairman:** I think that what is meant by the substantial risk of a defective child is this: for instance, a woman having taken thalidomide early in her pregnancy would be considered to have a substantial risk of having a defective child. Also a pregnant woman who was exposed to german measles at, say, somewhere between the sixth and twelfth week of a pregnancy has a substantial risk of having a defective child in some way. Do the medical practitioners agree with me?

**Mr. Cowan:** Well, thalidomide has been outlawed in Canada so we do not have that danger anymore.

**The Chairman:** But german measles has not.

**Mr. Cowan:** Through you, Mr. Chairman, I ask, why not let the child be born and then if it is defective, kill it? Why would you not favour that?

**Mrs. MacInnis (Vancouver-Kingsway):** Would you be in favour of that?

**Mr. Cowan:** No. I am not in favour of this abortion law either. I was just wondering why you would not allow the pregnancy to come to completion and when the child was proven to be defective, then we could kill it. Would you not favour that? Why worry about whether you kill it three months before birth or one week after the birth.

**Mrs. MacInnis (Vancouver-Kingsway):** It was not my intention to get into theological arguments today. I think those will be forthcoming when we have the different church bodies in front of us. I would rather not get into the theological side today because it would be too lengthy.

**Mr. Cowan:** You do not define "defective". If you favour not taking the substantial risk of a defective child being born, do you think that President Roosevelt should have been shot the day he was paralyzed? He was defective when he was about 40 years old.

**Mrs. MacInnis (Vancouver-Kingsway):** But he was not paralyzed before he was born.

**Mr. Cowan:** But why kill human beings if they are paralyzed before they are born if

you do not kill them when they are paralyzed after they are born? This is the point I am raising.

**Mr. Knowles:** She does not believe in capital punishment.

**Mrs. MacInnis (Vancouver-Kingsway):** No, that is right.

**Mr. Cowan:** In my opinion, Roosevelt did nothing wrong.

**Mr. Knowles:** You are the believer in capital punishment.

**Mr. Cowan:** I certainly am when a man has committed a crime but Roosevelt never committed a crime. Mrs. MacInnis says you should do it because a baby may be defective. I might make the broad statement that all people who are defective do not commit crimes. Or do you allege that all defective people do commit crimes?

Now that the hon. member for Winnipeg North Centre—I always feel pretty pleased that I do not get him mixed up with Mr. Churchill—has brought up the matter of capital punishment do you Mrs. MacInnis hold up to us the fact that California has an agitation going for abortion laws? Do you realize that California has restored capital punishment? Which example do you wish us to follow, the restoration of capital punishment or—

**Mrs. MacInnis (Vancouver-Kingsway):** I think we are getting a little off the subject.

**Mr. Cowan:** Mr. Knowles brought the subject up.

**Mrs. MacInnis (Vancouver-Kingsway):** Well, all right. I think that we want legislation which will make it possible for people, if they fit into these categories and wish to have abortions under the limited terms of such legislation to do so, and for other people not to have abortions forced on them. I believe in freedom of choice.

**Mr. Cowan:** Why do you say that you favour abortion if the pregnancy is the result of rape or incest only? Why do you not say if the pregnancy is the result of prostitution, rape or incest because chances are, under this regulation, if it was ever passed, the prostitute would immediately claim that she was raped. Do you realize that Lincoln's father is unknown to history? He was the son of the Hanks woman. Would you have favoured having that foetus killed off too?

**Mrs. MacInnis (Vancouver-Kingsway):** I do not really think, Mr. Chairman, that we are going to get any place by going so far afield.

**Mr. Cowan:** I think my question is right on the button. The Chairman has not ruled me out of order. It was my last question.

**The Chairman:** Are there any other questions? If not, we want to thank you, Mrs. MacInnis, for presenting your bill.

We will move on to Mr. Wahn's bill. Although I have not mentioned it to the sponsor I think it is obvious we are discussing only Clause 1 of Bill C-123. Clause 2, dealing with birth control is not within the Committee's terms of reference at this time.

**Mr. Wahn:** Mr. Chairman, I welcome the opportunity to explain this bill to members of the Committee. As you pointed out today, we are dealing only with Clause 1 which deals with therapeutic abortions. Clause 2, which deals with contraceptives, was dealt with last session.

Therapeutic abortion means an abortion performed for the purpose of safeguarding the life or health of the pregnant woman. The purpose of this bill is not to make any radical change in the existing law. Rather, its purpose is extremely modest, that is, to clarify the confusion which now exists in our Canadian law on this subject. I think it is probably generally recognized that an abortion is legal today in Canada if it is performed for the purpose of preserving the life of the pregnant woman. There is some question as to whether it is legal if it is performed for the purpose of preserving her health. Just to illustrate how serious the confusion is I would like to refer to the provisions of the Criminal Code which I think most everyone finds very difficult to interpret.

First there is Section 209 which states that:

Every one who causes the death of a child that has not become a human being, in such a manner that, if the child were a human being, he would be guilty of murder, is guilty of an indictable offence and is liable to imprisonment for life.

Then subsection (2) says:

This section does not apply to a person who, by means that, in good faith, he considers necessary to preserve the life of the mother of a child that has not become a human being, causes the death of the child.

So this section is quoted to establish the principle that an abortion is not illegal, or putting it positively, an abortion is legal if it is performed in good faith to preserve the life of the mother.

However, we have another section, Section 237, which reads:

Every one who, with intent to procure the miscarriage of a female person, whether or not she is pregnant, uses any means for the purpose of carrying out his intention is guilty of an indictable offence and is liable to imprisonment for life.

And:

Every female person, who being pregnant, with intent to procure her own miscarriage, uses any means or permits any means to be used for the purpose of carrying out her intention is guilty of an indictable offence and is liable to imprisonment for two years.

There are no exceptions whatsoever. This creates a serious difficulty of interpretation because it seems to be inconsistent with Section 209 which provides specifically that if you kill an unborn child for the purpose of preserving the life of the mother it is not a criminal offence.

The explanation may possibly be found in Section 45 of the Criminal Code which states:

Every one is protected from criminal responsibility for performing a surgical operation upon any person for the benefit of that person if (a) the operation is performed with reasonable care and skill, and (b) it is reasonable to perform the operation, having regard to the state of health of the person at the time the operation is performed and to all the circumstances of the case.

Now this section was not passed with abortions in mind. I believe it was passed to protect medical practitioners who perform surgical operations with reasonable skill, perhaps in cases where the patient died or was injured and the medical practitioner required the protection which is provided in this section. But in terms it does seem to go far enough to indicate that someone who performs a surgical operation with reasonable skill, which is justified, having in mind the state of health of the patient, is protected from criminal responsibility.

I cite these sections merely to show that there is real confusion as to what the state of

the law is in Canada with regard to therapeutic abortions. The basic purpose of my bill, which as I say is a very modest purpose, is simply to clear up this confusion by stating specifically that therapeutic abortions are legal in Canada. It declares that to be the true state of the law. Reference was made earlier today to a case in England, the Byrne Case, where it was held, under English law—their legislation is slightly different from ours—that, even before the recent statutory change, a therapeutic abortion was legal if performed in good faith to preserve either the life or the health of the pregnant woman. That is the basic purpose of this bill.

The fact that this clarification of the law is necessary, I think, is established by the newspaper reports that have come out within the last few months which point out that therapeutic abortions are being carried out in hospitals in Toronto and other cities but that the doctors who must carry out these operations are not really certain as to their legal rights.

I think the position is also illustrated in a newspaper report from the *Globe and Mail*, and perhaps I could read it to the members of the Committee.

The ambiguously worded Criminal Code is generally interpreted to mean that abortion is prohibited except to save the mother's life. Health Minister Matthew Dymond told the Ontario Legislature Tuesday that it is a doctor's responsibility to perform an abortion if the health of his patient is threatened. The Canadian Medical Association of Canada agrees and recommended last June that grounds for abortion be so broadened "to legalize what has and is being done".

There are hospitals in Canada today where therapeutic abortions are carried out but there is some doubt whether they are legal in all cases. I think it is plainly desirable to clear up the existing law. As I say, the purpose of the bill is not to make any radical change in the existing law. Basically the purpose of the bill is to declare what the existing law actually is and to make it entirely clear that doctors are entitled to perform therapeutic abortions which are necessary to preserve either the life or the health of the pregnant woman. I feel confident that there is almost a general consensus in Canada that we can safely go this far because, as I say, we are not basically changing our rules, we are simply declaring what our rules are.

As pointed out by Mrs. MacInnis, and certainly in this bill, there is no intent to interfere in any way with the ecclesiastical or moral laws. These continue to apply. The effect of this bill will simply be to declare that where a pregnant woman is in danger of losing her life, or will suffer in health as a result of the pregnancy, she will not be punished by the state by way of imprisonment or fine if she has an abortion performed in accordance with the safeguards set out in this bill. She will still be subject to whatever moral or ecclesiastical penalties may be applicable but the state, at any rate, will not impose additional penalties upon her.

The second purpose, Mr. Chairman, of this bill is simply to provide appropriate safeguards for carrying out therapeutic abortions and to make them uniform across the country. There is no such uniformity at the present time and I think this is undesirable. I think whatever the code is that it should be uniform for all hospitals in Canada.

I would like just briefly to explain what the bill provides. In the first place, if a therapeutic abortion is to be performed legally it must take place in an active treatment public hospital by or under the supervision of a duly qualified medical practitioner. If the hospital has an abortion committee, as most hospitals have, the abortion must be approved by the abortion committee. If there is no such abortion committee, then it must be approved by a second qualified medical practitioner. Of course, it can only be performed with the consent of the pregnant woman. If the pregnant woman is married, the consent of the husband must also be obtained. I have had women ask me why this is so, and they were very indignant about it. It never occurred to me that the rights of the father would not be recognized. It is sometimes regarded by some women as rather backward looking legislation that the consent of the husband is required, but it is in the bill. If a pregnant woman is unmarried and is under the age of eighteen the bill provides that the consent of one of her parents or a guardian should be obtained if they can be found and are available to give consent.

I believe it is true, Mr. Chairman, that this bill has been prepared basically in the light of the recommendations made by the Ontario Medical Association several years ago and Dr. Lowe, the Chairman of the Abortion Committee of the Ontario Medical Association, has seen this provision and I worked with him in preparing it.

I think, Mr. Chairman, that is about all that I need to say by way of explanation. There are two basic purposes. First, to clarify the law and, second, to provide proper safeguards and a uniform procedure for all hospitals across the country.

**Mr. O'Keefe:** I just have one question, Mr. Chairman. Mr. Wahn, as a lawyer and, incidentally, one for whom I have the greatest respect, would you not agree that as elected representatives of the people we should consider just what makes a pregnancy unwanted instead of what to do about an unwanted pregnancy? I am asking this question as a politician who is interested in people.

**Mr. Wahn:** I think that is a very important consideration.

**Mr. O'Keefe:** Would you like to enlarge on this?

**Mr. Wahn:** As I say, this particular bill is very modest. It does not purport to deal with unwanted pregnancies. It purports to deal with pregnancies which endanger the health or the life of a pregnant woman and to declare that in those circumstances and under these safeguards the state will not impose any additional punishment upon her if she has her pregnancy terminated.

**Mr. O'Keefe:** As a lawyer what rights do you think an unborn child has?

**Mr. Wahn:** I do not pretend to be an expert on this particular subject but legally, whatever the situation should be, an unborn child has very few rights.

**Mr. Cowan:** May I interrupt at this point to ask about the clause in Thellusson's law which speaks of twenty-one years and the period of gestation? An unborn child must have some rights because it is the law today in Great Britain and in Canada.

**Mr. Wahn:** I think perhaps an unborn child has some rights. I said that I thought it had very few rights, perhaps fewer than it should have.

**Mr. Cowan:** What about the period of gestation?

**Mr. Wahn:** For example, there is one interesting section in the Criminal Code which may be of some help to Mr. O'Keefe. It deals with when an unborn child becomes a human being.

**Mr. Cowan:** Thellusson's law says twenty-one years plus the period of gestation, and that is normally taken to be nine months.

**Mr. Wahn:** I have the section here. I can give it to you for what it is worth. It may not answer your question specifically but section 195 of the Criminal Code provides that a child becomes a human being within the meaning of the Criminal Code when it has completely proceeded in a living state from the body of its mother and whether or not it has breathed or has independent circulation or the navel string has been severed.

**The Chairman:** In other words, at birth?

**Mr. Wahn:** Yes, at birth.

**Mr. Cowan:** Thank you, Mr. Chairman.

**Mr. O'Keefe:** You gave it as your opinion, Mr. Wahn, that an unborn baby has very few rights. Would you agree that one right is the right to life?

**Mr. Wahn:** I believe it should be permitted to live in normal circumstances, yes. I do not know whether it has that legal right or not. As I say, I am not an expert on this particular subject.

**Mr. O'Keefe:** You are not sure that a baby has the right to life?

**Mr. Wahn:** I am not sure to what extent it has a legally enforceable right to live before it has been born.

**Mr. O'Keefe:** I pass, Mr. Chairman. Thank you, Mr. Wahn.

**Mr. Rock:** As a lawyer, Mr. Wahn, do you know of any cases where abortionists have been arrested or doctors who have performed abortions have been arrested and have received jail terms and lost their licences? I guess there are quite a few cases like that in Canada that you are aware of?

**Mr. Wahn:** There certainly are some.

**Mr. Rock:** On any of these cases do you know if the woman who was pregnant also received a jail sentence or was it only the abortionist?

**Mr. Wahn:** I cannot recall any case where the woman was given a jail sentence or punished. Most often it was the abortionist.

**Mr. Rock:** According to the Criminal Code, though, she as well as the abortionist should receive a jail sentence.

**Mr. Wahn:** But, apparently her crime is considered of much lesser importance, as evidenced by the fact that the abortionist can be imprisoned for life while her maximum imprisonment is two years.

**Mr. Rock:** Do you feel that you have gone far enough in your bill or would you favour going a little further than this? Have you any objection to, say, giving as far as Mrs. MacInnis went or as far as Mr. Herridge is going?

**Mr. Wahn:** I see some difficulties in going further, difficulties which have been referred to this morning. For example, in the case of rape and incest there is the question of eventually establishing whether there has been rape or incest. Certainly in some cases it could be determined and in others it might be difficult.

**Mr. Rock:** Yes, but suppose we go the whole hog and accept Mr. Herridge's bill—the future well being of herself and/or the child. This means that any woman single or married, for any reason whatsoever, as long as she decided, could have an abortion. Have you any objection to going that far? This would clarify all the other considerations that might exist. It would be much simpler. What is your opinion?

● (12.30 a.m.)

**Mr. Wahn:** I do not believe that there is a consensus along those lines. Parliament can not be too far ahead of public opinion. I think there is a general consensus that the law should be clarified to provide specifically for legalization of therapeutic abortion. Once you go past that point, I am not sure whether public opinion is ready for it, or ever will be. I feel as I think do the majority of the members of this Committee, that the true solution for the problem of unwanted children is proper contraception, and not widespread abortion. I believe this to be in accord with the experience of most civilized countries.

**The Chairman:** Are there any other questions for Mr. Wahn?

**Mr. Cowan:** Mr. Wahn, in the explanatory notes under clause 1 you point that

Termination of pregnancy in such circumstances has been recommended in a Report to the Council of the Ontario Medical Association...

and then you say, that it has been approved

by the Council of the Ontario Medical Association. Is the Council the official body of the Ontario Medical Association? Has it been passed by the Ontario Medical Association in convention, or are such things not put before the Medical Association? Is the action of the Council considered final?

**Mr. Wahn:** It has certainly been approved by the Ontario Medical Association in convention and also, I am quite sure from the press reports, by the Canadian Medical Association in 1966.

**Mr. Cowan:** I just wondered why it only says "Council of the Ontario Medical Association," instead of "by the Ontario Medical Association".

**Mr. Wahn:** Mr. Cowan, this bill was originally introduced several years ago. At that time it had been approved by Council and published in the transactions of Council, May 10-11, 1965, but the convention had not been held at that time. It was held later, and it did approve the recommendations as published by the Council.

**Mr. Cowan:** When you quote Dr. Lowe, I can only say that he brought my son into the world, and in my opinion you are quoting a very high authority.

I would like to revert to what Mr. O'Keefe was asking you. I am asking you this question because you are a lawyer. If an unborn child has no right to life why has the legal profession granted that unborn child rights in the period of gestation with regard to wills and trusts and in the administration of the father's and mother's estate which, as you know, can only be tied up for twenty one years plus the period of gestation? The House of Commons in Britain, and certainly the legislatures of the United States and of Canada, which have adopted Thellusson's Law, admit that the unborn child has legal rights by that very clause "plus the period of gestation".

**Mr. Wahn:** I have a feeling that there are certain rights. I do not know how far they go.

**Mr. Cowan:** I think Mr. O'Keefe is right when he says that the right to life is the primary one among all of the child's entitlements. Why give it secondary rights if it has no right to life?

**Mr. Wahn:** We are getting into a theoretical discussion. Basically the difficulty is that nobody can enforce a right until he is a human being, and, as the Code indicates, for

legal purposes the unborn baby is not a human being until he is born. As I believe Mr. O'Keefe pointed out, the community may have an interest in the unborn child, but the unborn child is not in a position to enforce any right because it has not been born.

**Mr. Cowan:** This is a technical argument. I do not know how often Thellusson's Law is produced in court and action taken under it, but I do know that the will of John Ross Robertson of the Toronto Evening Telegram was set aside in favour of his widow who lived for more than twenty one years and nine months after his death. And as recently as 1939 Thellusson's Law was used very effectively in the Ontario Supreme Court so that the widow and some ancillary legatees could share in the profits of the Toronto Telegram during the interval between 21 years and the period of gestation had passed and Mrs. Cameron died. Mrs. Robertson married a second time. Therefore, Thellusson's Law is still effective in this country and the period of gestation is still observed by such august bodies as the Supreme Court of Ontario.

**Mr. Wahn:** A representative of the Canadian Bar Association will be giving evidence before the Committee and will no doubt have specific information on this subject. It is a technical one and I just cannot enlighten the Committee beyond what I have already said.

**Mr. Cowan:** I do not think this is the question. You cannot quote to me any higher authority than Dr. Lowe.

**Mr. Stanbury:** Mr. Wahn, this approach certainly recommends itself to me. I would like to ask for some explanation of the reason for requiring the consent of one parent or guardian for a pregnant woman, unmarried and under the age of 18 years. Is this intended to be a protection for the mother, or for the doctor? Is it the practice now that when people under the age of 18 years being operated on there should be obtained the consent of a parent or guardian for the operation?

**Mr. Wahn:** I do not know what the present practice is. I would think a doctor would be well-advised, though, to get the consent of a parent.

**An hon. Member:** This is so.

**Mr. Stanbury:** I am just wondering whether that really has any place in the Criminal Code. Is it not simply a matter of general

practice in all surgery? It does not seem to me to have any more pertinence to the problem of abortion than to other surgery.

**Mr. Wahn:** It is just an additional safeguard.

**Mr. Stanbury:** I just wondered if there was any particular special reason for it, or whether it is just here because it was in the recommendation of the Medical Association?

**Mr. Wahn:** It seemed to me that it was a useful safeguard; but if it is provided for otherwise it need not be provided for here.

**Mr. Stanbury:** Thank you.

**The Chairman:** Are there any other questions?

**Mr. Orange:** You say that the purpose of your bill is to clarify the law and provide proper safeguards and uniform procedures. In your proposed amendment you say at about the sixth or seventh line

...in order to preserve the life or the mental or physical health of the pregnant woman...

The part that concerns me more than any other is how you define the mental health of a pregnant woman. I am a little concerned with this particular definition. I can see where medical practitioners can determine something about physical health, but mental health is an area which is really so unknown to society today that I feel that it creates the possibility of opening up the abortion laws to the point where what you are proposing might not be achieved—that is, to clarify the law.

**Mr. Wahn:** Yes. If I were drafting the bill again I think it would be better just to refer to health; in other words, just say "to preserve the life or health of the pregnant woman" and leave it at that. For example, the Committee on Divorce heard a great deal of evidence indicating the difficulty of distinguishing between physical and mental health. Perhaps it would be better in redrafting it to omit the reference to physical or mental health, just refer to health and leave it to the doctors to come to their own conclusions.

**The Chairman:** I should point out that it is fairly common to have a psychiatrist sit in on so-called abortion committees.

**Mr. Orange:** What does that prove?

**The Chairman:** Well, he is a man who is specially trained in psychiatry.

Are there any other questions of Mr. Wahn? If not, I will thank Mr. Wahn and invite Mr. Herridge to take the stand.

**Mr. Herridge:** Mr. Chairman, first of all, I want to thank the Committee for asking me to outline briefly my approach as indicated by the introduction of this bill entitled An Act Concerning the Termination of Pregnancy by Registered Medical Practitioners. I must also admit that I have had no personal experience on this subject and some people might consider it even impertinent for a mere man to deal with this problem. I say this because one or two people have made that suggestion. I introduced this bill as a family man who has a great respect for traditional values but who realizes that we are facing a very difficult problem when we deal with this subject at the present time. It is a serious national problem in view of the fact that, according to one letter I have received, there are 100,000 to 300,000 abortions performed in Canada annually and the majority of them by persons with little or no medical training or experience. Without a doubt it is a very pressing social problem which threatens the structure of a very large number of Canadian families. For this reason, as a member of Parliament and at the request of a number of persons not only in my constituency, I have accepted my full responsibility to do something about it by the introduction of this bill.

As I said before, I have consulted with my constituents, I have read of developments in the United States, studied their logistics and I have also studied the bill with similar objectives which was introduced in the Parliament of Great Britain. In that connection I want to quote the bill because my bill is actually based on the United Kingdom bill and I have always had a great respect for what they do in the United Kingdom. I want to read these three clauses:

2. (a) (i) that the continuance of the pregnancy would involve risk to the life or of injury to the physical or mental health of the pregnant woman or the future well-being of herself and or the child or her other children;

(ii) in determining whether or not there is such risk of injury to health or well-being account may be taken of the patient's total environment actual or reasonably foreseeable; or

(b) that there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped.

The other clause which is taken from the United Kingdom bill is Clause 4, which reads:

4. No doctor, nurse, hospital employee nor any other person shall be under any duty, nor shall they in any circumstances be required, to participate in any operation authorised by this Act to which they have a conscientious objection, provided that in any civil or criminal action the burden of proof of conscientious objection shall rest on the person claiming it.

I was very interested when Mrs. MacInnis mentioned the fact that the bill was passed by a certain majority in the House of Commons and by a much larger majority in the House of Lords. It appears to me that in Great Britain the House of Lords is more progressive on this subject than the members of Parliament at this time.

**An hon. Member:** That is not the only subject.

**Mr. Herridge:** No, that is quite correct. That somewhat assures me.

**Mr. Cowan:** They are more forward-looking than the Labour Government at the moment.

**Mr. Herridge:** In that respect, yes.

I also wish to bring to the Committee's attention the last part of subsection (1) of Clause 3 of the bill. I introduced this clause in order to meet our particular Canadian circumstances when it comes to dealing with legislation of this type. The particular words I want to bring to the Committee's attention read as follows:

provided that such rules shall cease to have effect in a Province whenever corresponding or other rules have been promulgated by the Lieutenant-Governor in Council.

I introduced that phrase because I believe the words will meet particular Canadian circumstances in dealing with this very difficult problem.

That is all I have to say in introducing this matter. For the information of the Committee I have tabled copies of the United States House Bill No. 1426, Relating to Abortion as well as copies of a bill to Amend and clarify the law relating to termination of pregnancy

by registered medical practitioners which was introduced and adopted in the Parliament of Great Britain.

In conclusion, I might say, that I have had considerable correspondence since I introduced this bill and have found there is very strong support across the country for the terms of this bill. In fact, I have only just recently received a letter from a certain group who said they are impressed with the ingenious wording of its contents. I must explain again that I have approached this matter as a person with a great respect for traditional values, but I do realize this is a social problem that has to be faced by this Parliament and for that reason I have introduced this bill based largely on the bill that has been adopted in the United Kingdom. I trust the Committee will give consideration to its terms.

**Mr. O'Keefe:** Mr. Chairman and Mr. Herridge, with some reservations I can congratulate the mover of this bill on the proviso that he just read, but would he not agree that it is a kind of opting-out suggestion?

**Mr. Herridge:** Possibly, yes; it gives the bill a form of flexibility.

**Mr. O'Keefe:** Can you not see the problem of having different laws in different provinces? I know this situation already exists in certain cases.

**Mr. Herridge:** Yes, that is quite correct.

**Mr. O'Keefe:** But in a case like this it would be unacceptable to have one law in Quebec and another one in Ontario. Would you not agree with that?

**Mr. Herridge:** I included that clause because I was hoping that the Canadian Parliament would approve the principle of the bill and yet provide a certain flexibility for its application in any province.

**Mr. O'Keefe:** Sir, you must have noticed from my questioning this morning that I am unable to find very little concern about the rights of unborn babies. I am interested in your opinion on these rights.

**Mr. Herridge:** I am not a lawyer and I am not a medical man—

**Mr. O'Keefe:** You are a person who is concerned with people because you are a politician.

**Mr. Herridge:** Yes, I have always been concerned with people.

**Mr. Cowan:** He is a statesman, Joe.

**Mr. Herridge:** Yes, I do think the unborn child has rights unless they are overridden by other proven circumstances.

**Mr. O'Keefe:** Thank you, Mr. Chairman.

**Mr. Knowles:** Mr. Chairman, Mr. Herridge said he was tabling a couple of items. I should like us to consider whether we should not in some way have copies. The British bill has been passed; the Washington bill has not.

**Mr. Herridge:** No.

**Mr. Knowles:** Perhaps they could be duplicated and distributed to assist us.

**The Chairman:** We could have photo-copies made of the English bill. It is very short.

**Mr. Knowles:** I suggest that both be made part of our record and that we be provided with photo-copies.

**The Chairman:** I am not sure of the legality of it, but they are not too big and perhaps we could put them in as appendices to today's proceedings.

**Mr. Knowles:** I was going to suggest that.

**Mr. O'Keefe:** We might have to get permission.

**The Chairman:** I am not sure if it is legal to print a document of another country. We may have to have their permission.

**Mr. Stanbury:** We are a sovereign Parliament.

**Mr. Cowan:** We were told about Colorado this morning.

**The Chairman:** I will look into it. If it is possible, we will print them as appendices to today's proceedings. Is that agreed?

**Some hon. Members:** Agreed.

**Mr. O'Keefe:** But we may not get these copies for a long time. It depends on how the printing is going. If we have photo-copies we can have them shortly.

**The Chairman:** We will do that.

**Mr. Stanbury:** I, too, was concerned about Mr. O'Keefe's point about having different rules in different provinces and about the possibility of people shopping around from province to province for the best abortion rules. However, having now read it carefully

I do not think that is a danger, because the rules that you have set out in paragraph 3 (1) are rules of recording of statistics rather than of requirements that would have to exist before an abortion was approved.

**Mr. Herridge:** Yes, that is correct.

**Mr. Stanbury:** That does not seem to pose a problem in that section. I have no further questions.

**Mr. Rock:** Mr. Herridge, I wish to refer to (a) (i) which I will read:

that the continuance of the pregnancy would involve risk to the life or injury to the physical or mental health of the pregnant woman or the future well-being of herself and or the child or her other children;

The future well-being of a single girl is not so assured as that of the married woman; therefore, you have gone much further than did Mrs. MacInnis. In other words, what would be your view on the future well-being of a single girl who is pregnant?

**Mr. Herridge:** I cannot answer that question in detail. As I said previously, I have read the material from Great Britain very carefully and in view of the lengthy debate in the House of Commons and in the House of Lords on this subject I have included that in my bill because I have every confidence in their wisdom in dealing with a question of this type.

**Mr. Rock:** You cannot give an example of what "the future well-being of herself" would mean in regard to a single girl?

**Mr. Herridge:** No; I will be frank. I could not give a good illustration of that.

**Mr. Rock:** But you realize that having this in your bill would give the single girl more right, in comparison to the other two bills that were presented, in terminating her pregnancy.

**Mr. Herridge:** No, I cannot see that exactly.

**Mr. Rock:** She could claim that, being a single girl and being pregnant, her future was at stake.

**Mr. Herridge:** I do not think she could claim that on sound grounds, according to this bill.

**Mr. Rock:** You do not think so?

**Mr. Herridge:** No.

**Mr. Rock:** I will not argue any further with you.

**Mr. Brand:** Mr. Herridge, I am wondering a little about paragraph 4 of your bill. I understand you took that directly from the British act.

**Mr. Herridge:** Yes.

**Mr. Brand:** Do you really think that is necessary here? I understand that in Great Britain they must meet certain obligations under the National Health Service which would perhaps force them, except for the provisions of the bill, to carry out an abortion. Surely this provision does not apply in this country where I do not have to treat a patient if I do not wish to.

**Mr. Herridge:** No; but it may apply to nurses or to hospital employees on occasions. It is inserted there I understand to make every provision for the conscience of the person in relation to this subject. This section of the bill received quite lengthy consideration.

**Mr. Brand:** It would in Great Britain, particularly with regard to the doctors.

**Mr. Herridge:** But what happens with the inception of our universal medical scheme on July 1, 1968?

**Mr. Brand:** You are suggesting that it is going to be compulsory?

**Mr. Stanbury:** Not in Canada.

**An hon. Member:** It is not even in effect yet.

**Mr. Herridge:** Not at the present time, no.

**Mr. Stanbury:** There is no compulsion on doctors suggested by any Canadian—

**Mr. Herridge:** No. I know that; but there could be circumstances in which nurses or other hospital employees would, in the line of duty be asked to do certain things. This gives them the right to object on conscientious grounds.

**The Chairman:** Are there any other questions?

**Mr. Cowan:** I have a question for Mr. Herridge. In clause 2 (a) (i) he refers to the physical or mental health of a pregnant woman, but in subsection (ii) he refers to the risk of injury to health or well-being. Why the change in the wording from subsection (i) to subsection (ii)? Why not include "mental

health" in subsection (ii) as well as in subsection (i)? "Well-being" is a much bigger net in which to catch reasons than is the heading "mental health."

**Mr. Herridge:** I do not think there is any conflict between the two sections. The purpose is outlined clearly in subclauses (1) and (2) of clause 2.

**Mr. Cowan:** There is no conflict except that "well-being" creates a much broader base on which to do this than exists under subclause (i) which is limited to physical or mental health. "Well-being" can refer to material possessions and standard of living.

**Mr. Herridge:** Yes. This bill is in effect a copy of the United Kingdom bill and I could see no conflict in the sections concerned.

**Mr. Cowan:** It is a wonder you do not make subsection (i) as wide as (ii) and make it "mental health or well-being" as you do in section (ii).

**Mr. Herridge:** I am not a lawyer and I presume the persons who drafted this bill originally in the United Kingdom did so with a full knowledge of the relationship of one section to another.

**Mr. Knowles:** Mr. Chairman, it is pretty coherent and (a) (i) has reference to an injury to mental health or to future well-being.

**Mr. Herridge:** Yes.

**Mr. Knowles:** You have just shortened it. In the second section you are referring to the health that is involved and to the well-being that is involved instead of repeating the whole of the language.

**The Chairman:** May I ask a question for clarification, Mr. Herridge?

**Mr. Cowan:** I have another question. Clause 4 in the last two lines says:

provided that in any civil or criminal action the burden of proof of conscientious objection shall rest on the person claiming it.

Does this mean that persons who claim to be conscientiously opposed to abortion are considered guilty until they are able to win their case? We will not go for that in this country.

**Mr. Herridge:** I think that would be treated in just the same way as we treated the application of the conscription law. Because of

their beliefs any person who was opposed to conscription on religious grounds was not conscripted.

**Mr. Cowan:** If a person is a conscientious objector to this bill, what is he guilty of? The burden of proof is on him.

**Mr. Herridge:** I think that will be easily recognized by the person who is applying the law. They know that certain persons conscientiously object to taking part in such an operation.

**Mr. Cowan:** Those last three lines are really a stinger in this bill.

**Mr. Herridge:** I really cannot see that. To my knowledge there has never been any difficulty in proving that a person has conscientious objections to doing certain things and it is usually based on his faith.

**Mr. Cowan:** The law should not say that they are guilty until they are proven innocent. That is what it adds up to in the last analysis. They have to bear the burden of proof as though they were guilty of something.

**Mr. Herridge:** I think there would be no difficulty in doing that on the part of the person concerned if it were a simple criminal action.

**Mr. Rock:** I cannot see that at all. All I see there is if a person objects, that is it. It is his own belief.

**Mr. Cowan:** That is right.

**Mr. Rock:** "I do not believe in this and I do not want to take part in it". That is what this claims.

**Mr. Cowan:** That is right. Yes

**Mr. Brand:** And I think that means to say that in such circumstances no similar criminal action may be taken against such conscientious objectors.

**Mr. Cowan:** We would have to have that in, Dr. Brand.

**Mr. Rock:** I see what you mean.

**An hon. Member:** It might be better.

**Mr. Herridge:** It might be, yes. I read this over carefully. I thought this question would very seldom arise because a person's conscientious objections are generally known.

(Translation)

**Mr. Matte:** Are you not concerned that your bill might lead the way to all sorts of abuses? As you put it, this "would endanger her other children". So, for financial reasons, even for selfish reasons, this would be accepted?

(English)

This is in section (2): — "...or would endanger her other children".

**Mr. Herridge:** Section 2, clause 1?

**Mr. Matte:** Clause 1, yes.

**Mr. Herridge:** I can understand your foreseeing such a possibility. There, again, I rest my case entirely upon the United Kingdom bill and the debate in the House of Commons and the House of Lords.

**The Chairman:** Could I just ask one question of Mr. Herridge? In your study of the United Kingdom bill was clause 1 (a) (ii), which reads:

in determining whether or not there is such risk of injury to health or well-being account may be taken of the patient's total environment actual or reasonably foreseeable;

interpreted to mean socio-economic factors which would open up the field of abortion for those reasons?

**Mr. Herridge:** No, I did not understand that at all.

**Mr. Cowan:** How long has this been in effect in Britain, though?

**The Chairman:** I think it was passed in June or July.

**Mr. Herridge:** Early July.

**Mr. Cowan:** There probably would not be many cases on it. There cannot be an answer to your question because there has been no time.

**The Chairman:** I wondered if it would be interpreted that way during the debate. I would certainly interpret it that way.

**Mr. Herridge:** Yes.

**Mr. Cowan:** I would, too. That is why I am checking with you.

**The Chairman:** Are there any other questions, Mr. Herridge?

If not, we thank you and the other witnesses for coming.

The meeting is adjourned until Thursday, October 12, when we will have the Canadian Bar Association.

## APPENDIX "A"

Medical Termination of  
Pregnancy

## A

## BILL

(as amended by standing committee f)

To amend and clarify the law relating to  
termination of pregnancy by registered  
medical practitioners.

*Presented by Mr. David Steel,*

*supported by*

*Dr. Winstanley, Dr. David Kerr,  
Dame Joan Vickers, Mrs. Renée Short,  
Mr. Simon Wingfield Digby,  
Mr. Alex Eadie and Viscount Lambton*

Ordered, by The House of Commons,  
to be Printed, 5 April 1967

## LONDON

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(Bill 229)

44-1

A  
BILL  
(AS AMENDED BY  
STANDING COMMITTEE F)  
TO

A.D. 1967

Amend and clarify the law relating to termination of pregnancy by registered medical practitioners.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Medical  
termination  
of  
pregnancy.

1.—(1) Subject to the provisions of this section, a person shall not be guilty of an offence under the law relating to abortion when a pregnancy is terminated by a registered medical practitioner if that practitioner and another registered medical practitioner are of the opinion, formed in good faith—

(a) (i) that the continuance of the pregnancy would involve risk to the life or of injury to the physical or mental health of the pregnant woman or the future well-being of herself and or the child or her other children;

(ii) in determining whether or not there is such risk of injury to health or well-being account may be taken of the patient's total environment actual or reasonably foreseeable; or

(b) that there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped.

(2) Except as provided by subsection (3) of this section, any treatment for the termination of pregnancy must be carried out in a hospital vested in the Minister

of Health or the Secretary of State under the National Health Service Acts, or in a place for the time being approved for the purposes of this section by the Minister or the Secretary of State.

(3) Subsection (2) of this section, and so much of subsection (1) as relates to the opinion of another registered medical practitioner, shall not apply to the termination of a pregnancy by a registered medical practitioner in a case where he is of the opinion, formed in good faith, that the termination is immediately necessary where there is a definite possibility of the death or grave permanent injury to the physical or mental health of the pregnant woman.

2.—(1) The Minister of Health Notification, in respect of England and Wales, and the Secretary of State in respect of Scotland, shall by statutory instrument make regulations to provide—

(a) for requiring any such opinion as is referred to in section 1 of this Act to be certified by the practitioners or practitioner concerned in such form and at such time as may be prescribed by the regulations, and for requiring the preservation and disposal of certificates made for the purposes of the regulations;

(b) for requiring any registered medical practitioner who terminates a pregnancy to give notice of the termination and such other information relating to the termination as may be prescribed;

(c) for prohibiting the disclosure, except to such persons or for such purposes as may be so prescribed, of notices given or information furnished pursuant to the regulations.

(2) The information furnished in pursuance of regulations under subsection (1) of this section shall

be notified solely to the Chief Medical Officers of the Ministry of Health and the Department of Health in Scotland respectively.

(3) Any person who wilfully contravenes or wilfully fails to comply with the requirements of regulations under subsection (1) of this section shall be liable on summary conviction to a fine not exceeding one hundred pounds.

(4) Any statutory instrument made by virtue of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

3.—(1) In relation to the termination of a pregnancy in a case where the following conditions are satisfied, that is to say—

- (a) the treatment for termination of the pregnancy was carried out in a hospital controlled by the proper authorities of a body to which this section applies; and
- (b) the pregnant woman had at the time of the treatment a relevant association with that body; and
- (c) the treatment was carried out by a registered medical practitioner or a person who at the time of the treatment was a member of that body entitled to practise as a medical practitioner under the law of the country to which that body belongs,

this Act shall have effect as if any reference in section 1 to a registered medical practitioner and to a hospital vested in a Minister under the National Health Service Acts included respectively a reference to such a person as is mentioned in paragraph (c) of this subsection and to a hospital controlled as aforesaid, and as if section 2 were omitted.

(2) The bodies to which this section applies are any force which is a visiting force within the meaning of any of the provisions

of Part 1 of the Visiting Forces Act 1952 and any headquarters within the meaning of the Schedule to the International Headquarters and Defence Organisations Act 1964; and for the purposes of this section—

(a) a woman shall be treated as having a relevant association at any time with a body to which this section applies if at that time—

(i) in the case of such a force as aforesaid, she had a relevant association within the meaning of the said Part 1 with the force; and

(ii) in the case of such a headquarters as aforesaid, she was a member of the headquarters or a dependant within the meaning of the Schedule aforesaid of such a member; and

(b) any reference to a member of a body to which this section applies shall be construed—

(i) in the case of such a force as aforesaid, as a reference to a member of or of a civilian component of that force within the meaning of the said Part 1; and

(ii) in the case of such a headquarters as aforesaid, as a reference to a member of that headquarters within the meaning of the Schedule aforesaid.

4. No doctor, nurse, hospital employee nor any other person shall be under any duty, nor shall they in any circumstances be required, to participate in any operation authorised by this Act to which they have a conscientious objection, provided that in any civil or criminal action the burden of proof of conscientious objection shall rest on the person claiming it.

5.—(1) Nothing in this Act shall affect the provisions of the Infant Life (Preservation) Act 1929 (protecting the life of the viable foetus).

Application  
of Act to  
visiting  
forces etc.

Con-  
scientious  
objection  
to  
operation.

Savings.  
1929 c. 34.

(2) For the purposes of the law relating to abortion, anything done with intent to procure the miscarriage of a woman is unlawfully done unless authorised by section 1 of this Act.

Inter-  
pretation.

6. In this Act, the following expressions have meanings hereby assigned to them:—

“The law relating to abortion” means section 58 and 59 of the Offences against the Person Act 1861, and any

1861 c. 100.

rule of law relating to the procurement of abortion;

“The National Health Service Acts” means the National Health Service Acts 1946 to 1966 or the National Health Service (Scotland) Acts 1947 to 1966.

7.—(1) This Act may be cited as Short title the Medical Termination of and extent. Pregnancy Act 1967.

(2) This Act does not extend to Northern Ireland.

## APPENDIX "B"

## AN ACT

(House Bill No. 1426. By Representatives Lamm, Gustafson, Bain, Black, Braden, Bryant, Burch, Burns, Coffee, Cresswell, Edmonds, Fowler, Frank, Friedman, Fuhr, Gebhardt, Gollob, Grimshaw, Grove, Haskell, Johnson, Koster, Lowery, McNeil, Monfort, Morris, Norgren, Porter, Safran, Schafer, Schubert, Sonnenberg, Strahle, Wilder, and Woodfin; also Senators Birmingham, Anderson, Brown, Cisneros, DeBerard, Decker, Garnsey, Hahn, Hewett, Hodges, Jackson, Kemp, Oliver, Stockton, and Thomas.)

## RELATING TO ABORTION

*Be it enacted by the General Assembly of the State of Colorado:*

Section 1. Article 2 of chapter 40, Colorado Revised Statutes 1963, as amended, is amended BY THE ADDITION OF A NEW SECTION 40-2-50 to read:

40-2-50. **Definitions.**—(1) As used in this act:

(2) "Pregnancy" means the implantation of an embryo in the uterus.

(3) "Accredited hospital" means one licensed by the Colorado State Department of Public Health and accredited by the Joint Commission on Accreditation of Hospitals.

(4) (a) "Justified medical termination" means the intentional ending of the pregnancy of a woman at the request of said woman or if said woman is under the age of 18 years, then at the request of said woman and her then living parent or guardian, or if the woman is married and living with her husband at the request of said woman and her husband, by a licensed physician using accepted medical procedures in a fully accredited hospital upon written certification by all of the members of a special hospital board that:

(i) Continuation of the pregnancy, in their opinion, is likely to result in the death of the woman; or the serious permanent impairment of the physical health of the woman; or the serious permanent impairment of the mental health of the woman as confirmed in writing under the signature of a licensed doctor of medicine specializing in psychiatry; or the birth of a child with grave and permanent physical deformity or mental retardation; or

(ii) Less than sixteen weeks of gestation have passed and that the pregnancy resulted from rape, as defined in section 40-2-25 (1) (a), (c), (d) and (e), or rape as defined in 40-2-25 (1) (a), (b), or (j) if the female person

has not reached her sixteenth birthday at the time of said rape; or incest, as defined in section 40-9-4, and that the district attorney of the judicial district in which the alleged rape or incest has occurred has informed the committee in writing under his signature, that there is probable cause to believe that the alleged violation did occur.

(5) "Special hospital board" means a committee of three licensed physicians who are members of the staff of the hospital where the proposed termination would be performed if certified in accordance with this act and who meet regularly or on call for the purpose of determining the question of medical justification in each individual case, and which maintains a written record, signed by each member, of the proceedings and deliberations of such board.

Section 2. Article 2 of chapter 40, Colorado Revised Statutes 1963, as amended, is amended BY THE ADDITION OF A NEW SECTION 40-2-51 to read:

40-2-51. **Criminal abortion.**—(1) Any person who intentionally ends or causes to be ended the pregnancy of a woman by any means other than by justified medical termination of the pregnancy or live birth is guilty of a felony, punishable by imprisonment in the state penitentiary for not less than three years nor more than ten years and by a fine in a sum not exceeding two thousand dollars.

(2) If any woman shall die as the result of the intentional ending of her pregnancy by any means other than by justified medical termination of the pregnancy or live birth, the person responsible is guilty of murder and shall be punished accordingly.

Section 3. Article 2 of chapter 40, Colorado Revised Statutes 1963, as amended, is amended BY THE ADDITION OF A NEW SECTION 40-2-52 to read:

40-2-52. **Pretended criminal abortion.**—(1) Any person who intentionally pretends to end the real or apparent pregnancy of a woman by any means other than by justified medical termination of the pregnancy or live birth is guilty of a felony, punishable by imprisonment in the state penitentiary for not less than one year nor more than three years and by a fine in a sum not exceeding one thousand dollars.

(2) If any woman shall die as the result of the intentional pretended ending of her real or apparent pregnancy by any means other

than by justified medical termination of the pregnancy or live birth, the person so pretending to end the real or apparent pregnancy is guilty of murder and shall be punished accordingly.

**Section 4. Failure to comply.**—Nothing herein shall require a hospital to admit any patient under the provisions of this act for the purposes of performing an abortion, nor shall any hospital be required to appoint a special hospital board as defined in this act. A person who is a member of or associated with the staff of a hospital or any employee of a hospital in which a justified medical termination has been authorized and who shall state in writing an objection to such termination on moral or religious grounds shall not be required to participate in the medical procedures which will result in the termination of a pregnancy and the refusal of any such person to participate shall not form the basis for any disciplinary or other recriminatory action against such person.

**Section 5. Repeal.**—40-2-23, Colorado Revised Statutes 1963, is repealed.

**Section 6. Safety clause.**—The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

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John D. Vanderhoof	Mark A. Hogan
SPEAKER OF THE HOUSE	PRESIDENT OF THE
OF REPRESENTATIVES	SENATE

---

Henry C. Kimbrough	Comfort W. Shaw
CHIEF CLERK OF THE HOUSE	SECRETARY OF
OF REPRESENTATIVES	THE SENATE

APPROVED\_\_\_\_\_

---

John A. Love  
GOVERNOR OF THE STATE OF COLORADO

OFFICIAL REPORT OF MINUTES  
OF  
PROCEEDINGS AND EVIDENCE

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Translated by the General Bureau for Translation, Secretary of State.

LÉON-J. RAYMOND,  
*The Clerk of the House.*

HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1967

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STANDING COMMITTEE  
ON  
**HEALTH AND WELFARE**

*Chairman:* Mr. HARRY C. HARLEY

---

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 2

---

THURSDAY, OCTOBER 12, 1967

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Respecting the subject-matters of

Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

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WITNESSES:

*Representing The Canadian Bar Association:* Mr. Gordon Cooper, Q.C.,  
of Halifax, President; Mr. Ronald C. Merriam, Q.C., of Ottawa,  
Secretary.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1967



STANDING COMMITTEE  
ON  
HEALTH AND WELFARE

*Chairman:* Mr. Harry C. Harley

*Vice-Chairman:* Mr. Gaston Isabelle

and

Mr. Ballard  
Mr. Brand  
Mr. Brown  
Mr. Cameron  
    (*High Park*)  
Mr. Chatterton  
Mr. Cowan  
Mr. Enns  
Mr. Forrestall

Mr. Howe (*Wellington-  
Huron*)  
Mr. Knowles  
Mr. Laverdière  
Mr. MacDonald (*Prince*)  
Mrs. MacInnis  
    (*Vancouver-  
Kingsway*)  
Mr. Matte

Mr. O'Keefe  
Mr. Orange  
Mrs. Rideout  
Mr. Rochon  
Mr. Rock  
Mr. Rynard  
Mr. Simard  
Mr. Stanbury—(24).

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

THURSDAY, October 12, 1967

(3)

The Standing Committee on Health and Welfare met this day at 11.10 o'clock a.m. The Chairman, Mr. Harry C. Harley, presided.

*Members present:* Mrs. MacInnis, Messrs. Ballard, Brand, Brown, Cameron (*High Park*), Chatterton, Cowan, Forrestall, Harley, Isabelle, Knowles, Matte, O'Keefe, Rock, Rynard, Simard, Stanbury (17).

*Other Member present:* Mr. Robert Prittie.

*In attendance: Representing The Canadian Bar Association:* Mr. Gordon Cooper, Q.C., of Halifax, President; Mr. Ronald C. Merriam, Q.C., of Ottawa, Secretary.

The Chairman informed the Committee that the documents referred to at the last meeting, namely: *Hansard* of the House of Commons of the United Kingdom and of the House of Lords containing the debates on abortion, are very extensive and that only two copies are available.

The Chairman also informed the Members that when arrangements were made for the showing on October 17th of the NFB film on Abortion, it had not been seen in its finished form and the Management would not accept it in that form. Therefore, it is being returned to the producer for remaking. There is no schedule for its release; as a result, the showing is being cancelled.

As the number of copies of the Minutes of Proceedings and Evidence of the Committee has been found to be insufficient, on motion of Mr. Brand, seconded by Mr. Rock,

*Resolved,*—That the number of copies to be printed in English of the Minutes of Proceedings and Evidence of this Committee on the subject-matter of Bills C-122, C-123 and C-136, be increased from 800 to 1,000, including Issue No. 1.

The Chairman introduced Mr. Cooper and Mr. Merriam.

Mr. Cooper outlined briefly the circumstances which resulted in the passage of the resolution of The Canadian Bar Association in 1966, and commented on the recommendations contained therein.

Mr. Merriam made short remarks.

*Agreed,*—That the above Resolution be printed as an appendix to this day's proceedings. (*See Appendix C*)

Mr. Cooper and Mr. Merriam were questioned.

At the Chairman's request, the representatives of The Canadian Bar Association agreed to put at the disposal of the Committee a copy of the transcript of the meeting of The Canadian Bar Association in 1966.

The Chairman thanked Mr. Cooper and Mr. Merriam for having supplied information to the Members and at 2.15 p.m., the Committee adjourned to 11 o'clock a.m., Thursday, October 19, 1967.

Gabrielle Savard,  
*Clerk of the Committee.*

## EVIDENCE

(Recorded by Electronic Apparatus)

**Thursday, October 12, 1967**

**The Chairman:** Ladies and gentlemen, we now have a quorum.

Before the discussion of the matter before us this morning, some documents were referred to at the last meeting, namely the United Kingdom *Hansard*, dealing with the question of abortion which came before their houses of Parliament. The question was brought up whether this should be reproduced for our use. It is far too extensive as there are something like 100 pages of debate from both their houses. We have two copies available. I think Dr. Brand has one at the moment and I have the other. If anyone wishes to have a copy, they are more than welcome to have one.

**Mr. O'Keefe:** May I ask for one now or do I have to wait until later?

**The Chairman:** Any time.

**Mr. O'Keefe:** Then I would like it now.

**The Chairman:** As you are all aware, we had scheduled a showing of a film on abortion published by the National Film Board for next Tuesday. However, I have now been informed that the management of the National Film Board had not seen the film in its preparation, have now seen it and found it unacceptable. They have sent it back for remake, so it will not be available on the date that we had hoped. It will be available at a later date.

We have had a request from the distribution office in connection with our resolution concerning the number of copies of our Minutes. They now notify us that there are not going to be enough copies to satisfy the demand so it has been suggested that we increase the number to 1,000 copies in English including No. 1, and keep the same number in French. We had ordered 800 copies in English and it has been suggested that we increase that to 1,000. Will someone make that motion?

**Mr. Brand:** I so move.

**Mr. Rock:** I second the motion.  
Motion agreed to.

**The Chairman:** This morning we have before us The Canadian Bar Association and they will talk to their resolution which you have all received in the mail.

I would like to introduce first of all Mr. Cooper, Q.C., of Halifax, the President of The Canadian Bar Association and Mr. Merriam, Q.C., of Ottawa, the Secretary of The Canadian Bar Association. Mr. Cooper?

**Mr. Gordon Cooper, Q.C. (President, The Canadian Bar Association):** Mr. Chairman, members of the Committee, I should like first to say that The Canadian Bar Association very much appreciates this opportunity to appear before you to speak to the resolution which was passed by the Association at the annual meeting held in Winnipeg in 1966. I should like first, Mr. Chairman with your consent, to outline briefly the circumstances which resulted in the passage of the resolution—the steps which were followed by the Association before the resolution was placed before the general meeting in Winnipeg and which of course, resulted in the passage of the resolution.

The matter of abortion was the subject of study by the Criminal Justice Section of the Association some time ago and in 1965, at the annual meeting of the Association held in Toronto, a proposed resolution which came from the Criminal Justice Section was placed before the general membership of the Association. It was considered at that time that the members needed a greater opportunity and more time to study this very important matter. Therefore, the proposal of the Criminal Justice Section, as set forth in their proposed resolution, was deferred until the next annual meeting which, as I have already said, was held in Winnipeg in 1966.

However, in the interim between the two annual meetings a committee of the Association was appointed to confer with The Canadian Medical Association and meetings were held between the two bodies represented by committees of each. As a result of these consultations and meetings the resolution was changed in some of its terms and then was introduced at the annual meeting in Winnipeg. A very full debate took place at the

annual meeting in Winnipeg which resulted in the passage of the resolution, copies of which are now, I believe, in your hands.

That briefly, Mr. Chairman and members of the Committee, is the background of the matter in so far as The Canadian Bar Association is concerned. I have already mentioned, but I should like to stress, that there was a very full debate on this matter which was taken very seriously indeed by the Association before the resolution was passed. I should now like to turn to the resolution itself and comment briefly on it and with your permission, Mr. Chairman, I should like to read it.

**"RESOLVED:**

That The Canadian Bar Association recommend to the Minister of Justice that the Criminal Code of Canada be amended so as to provide that an operation for the termination of pregnancy shall be lawful:

1. (a) if continuation of the pregnancy will endanger the life or health of the pregnant female or there is substantial risk that the child may be born with a grave mental or physical disability and the operation is performed by a duly qualified and licensed medical practitioner, in a hospital accredited by the Canadian Council on Accreditation, after approval by the therapeutic abortion committee of such hospital.

Stopping there for a moment I believe, except for the word "hospital" appearing before "Accreditation", that this provision is in the same terms as a resolution which has been approved by The Canadian Medical Association. I do not want to speak particularly on what The Canadian Medical Association has done because I know that they will be before you at a later date, but perhaps it might be of value and of some interest if I just mention and touch upon the co-operation which has existed between the two associations.

Then we come to Section 1 (b).

(b) where there are reasonable and probable grounds to believe that sexual offence has been committed from which pregnancy has resulted.

Section 2 provides that no operation on those grounds set out in Section 1 (b) for the termination of a pregnancy:

shall be performed unless an application has been made to and approved by a 'Termination Board' which means any

special board duly established under any provincial statute, or by the Lieutenant-Governor in Council of a province to authorize the termination of a pregnancy.

I believe that in so far as The Canadian Medical Association is concerned there is some difference of view with respect to the second section and that this second section has not been accepted by The Canadian Medical Association.

The reason The Canadian Bar Association thought that Section 2 should be in there and in any proposed legislation is simply that under Section 1 (b) there appear to us to be questions that are not medical "where there are reasonable and probable grounds to believe". We do not think that is exclusively within the medical area or exclusively within an area which would concern the medical profession alone and therefore, with respect to Section 1 (b), we consider that there should be a Termination Board which would deal with applications for abortions under the circumstances set forth in Section 1 (b).

Section 3 deals with the procedures before any Termination Board and provides that hearings before one of these boards:

shall be held in camera and evidence given before any such Termination Board shall not be admissible in evidence at any other proceedings except for the purpose of proving inconsistent statements made by the pregnant female.

I might say with respect to that last clause, "except for the purpose of proving inconsistent statements by the pregnant female," it is in there primarily for the protection of an accused person. For example, if the pregnant female has told the Termination Board that Mr. A was responsible for her condition and then in later criminal proceedings she states that Mr. B was responsible, it is considered that there should be an opportunity for the accused person to prove an inconsistent statement by the pregnant female before the Termination Board. That is the reason for this exception.

Section 4 is, I think, self-explanatory.

A full report of all applications for the termination of a pregnancy, whether made to the therapeutic abortion committee of a hospital or to a Termination Board, and whether or not such application is approved, shall be made to the Deputy Minister of Health of the province in which such application is made within

thirty days of the decision of such committee or Board and shall include, inter alia, a statement of the findings and result of such therapeutic abortion.

The second part is concerned with the recommendation to the appropriate authority in each province for the passage of an act creating a Termination Board within each province. It is perhaps not necessary for me to read every word of this second part of the resolution. You will see, following the copy you have, that the name of the act is given and the suggestion is made:

that the Board be constituted by seven (7) members: three (3) persons qualified as medical practitioners, two (2) persons qualified as barristers and solicitors, and two (2) persons who are practising social workers having the minimum qualification of Bachelor of Social Work, all such persons to be appointed from time to time by the Lieutenant-Governor in Council who shall also name the Chairman thereof.

Now you will recall from what I have said previously that the area within which this proposed Termination Board would operate is the area of Section 1(b), which I have already read.

There is provision for the quorum of the Termination Board and Section 4 provides that:

The condition of pregnancy can be terminated only with the written consent of the pregnant female unless the pregnant female is under the age of 21 years at the time of application.

Section 5 reads:

A pregnancy can only be terminated by a duly qualified medical practitioner when specifically so authorized by the Termination Board in a duly licensed hospital.

I should like to point out in this connection that it is our interpretation that if a doctor is satisfied under Section 1(a) of the suggested amendments to the Criminal Code that continuation of the pregnancy will endanger the life or health of the pregnant female or there is substantial risk that the child may be born with a grave mental or physical disability—if the other conditions are met—that the operation may be performed without reference to Section 1(b) at all. But if those conditions are not present and there are reasonable and probable grounds to believe that a sexual

offence has been committed then the doctor might come to the conclusion that Section 1(a) could not be satisfied and only under those circumstances, according to our interpretation of the resolution, would section 1(b) come into play and proceedings come before the Termination Board.

Coming back again to the suggested legislation setting up Termination Boards, Section 6 reads:

The Board may act on written reports or conduct such hearings as it deems advisable and may require witnesses to attend and give evidence under oath or to make representations to the Board by Affidavit.

You can read the remainder of that section quickly. I do not think it calls for any particular comment nor does Section 7 nor Section 8. Of course the setting up of Termination Boards must go along with, and be preceded by, the passage of legislation amending the Criminal Code of Canada as set out in the first part of the resolution.

Mr. Chairman, ladies and gentlemen, the permanent Secretary of the Association, Mr. R. C. Merriam, Q.C., is present, sitting at my right, and I should like to give him the opportunity, with your permission, sir, to add whatever he would like to what I have said. Possibly I may have omitted a point or unduly pressed another point and I am sure if I have done so Mr. Merriam will be glad to set me right.

**Mr. Ronald C. Merriam, Q.C. (Secretary, The Canadian Bar Association):** Mr. Chairman, members of the Committee, I really have nothing to add to what the President has said. He has covered the history of the resolution and the resolution itself pretty thoroughly. If members of the Committee have any questions they would like to ask, we would like to try to answer them now.

**The Chairman:** Before we proceed to questioning, is it agreed that the resolution itself appear as an appendix to today's Proceedings?

**Some hon. Members:** Agreed.

**The Chairman:** Members of the Committee may now ask questions.

**Mr. O'Keefe:** Thank you, Mr. Chairman. Mr. Cooper, how many members are there in your Association?

**Mr. Cooper:** There are at the moment slightly over 11,000.

**Mr. O'Keefe:** How many attended the meeting at Winnipeg at which this resolution was passed?

**Mr. Cooper:** At the meeting at which the resolution was passed—I have the transcript in front of me and it may take me a moment to look and see what numbers voted for and against. The Secretary tells me that there were approximately 500 present at that meeting but the material and the resolution which was to be put before the meeting had been circulated prior to the meeting to all members of the Association.

**Mr. O'Keefe:** How many of that 500 out of the 11,000 voted for this resolution?

• (11:30 a.m.)

**Mr. Cooper:** Mr. Chairman, there were various votes taken throughout the course of this meeting on amendments which were proposed. Now, on those amendments there were votes which expressed a reasonably substantial majority one way or the other. But, when the resolution was finally put, the Chairman said:

"Now, I put to the meeting the act or the proposed sections of the resolution, as amended, beginning with Section (2) on the top of page 2, and all the sections on that page and all the sections on the next page as amended.

Those in favour? Contrary? I declare it carried."

The number of votes for or against is not given in the transcript of proceedings. I think I am correct in saying, and the Secretary will correct me if I am wrong, that there was such a preponderance of votes in favour of the resolution that it was not necessary to take an individual count.

**Mr. O'Keefe:** Of course it could always mean that the ayes had louder voices.

**Mr. Knowles:** Just like in the House of Commons.

**Mr. Cooper:** Under the procedure that was followed I say seriously that there was absolutely no doubt.

**Mr. O'Keefe:** Thank you, Mr. Cooper. Now I am interested in what your proposal really intends to do.

**Mr. Knowles:** Would Mr. O'Keefe ask whether the 500 were there as delegates, or whether all 11,000 were vitally—

**Mr. O'Keefe:** Mr. Chairman, I have so many questions to ask that I will not have

time to put Mr. Knowles' question. Perhaps he could ask that question himself when his turn comes.

**Mr. Cooper,** what does your proposal really intend to do? Do you think it will reduce the number of illegal abortions? Certainly, evidence from a country like Sweden indicates the opposite despite legal means to procure abortions.

**Mr. Cooper:** Of course I can only express here the views of the Association as a whole.

Speaking for the Association, I do not think I can say more than that after full discussion on a great many aspects of the proposed resolution, the resolution was carried. You might find among certain members of the Association personal views on the effects which might follow, but I do not think I am in a position, speaking officially for the Association, to answer your question precisely, probably in the way...

**Mr. O'Keefe:** Could I ask you for your personal opinion?

**Mr. Cooper:** I understand that what you have said about Sweden is so, but I do understand that in that country a great many of the applications for termination of pregnancy are in fact turned down. I have read that about 60 per cent of those applications are turned down.

**Mr. O'Keefe:** It could happen here under your resolution.

**Mr. Cooper:** We would hope not.

**Mr. O'Keefe:** You would hope that all would be accepted by this Termination Board which has such a lovely sounding name. Mr. Cooper, I remember opponents of capital punishment, including many of your profession, arguing that the taking of life by the state somehow causes or contributes to the brutalization—I remember the words distinctly—of the community. Is not the Bar Association abandoning this view in this case? And are you not concerned that the taking of life by or with the consent of the state in any form, including its fetal form, must inevitably contribute to the devaluation of human life?

**Mr. Cooper:** During discussions at the meeting of which I am speaking, this point, with others, was raised and discussed by the members. I can only say that the result was the passage of the resolution.

**Mr. O'Keefe:** What about your own opinion?

**Mr. Cooper:** Well, in my own personal opinion—

**Mr. O'Keefe:** Mr. Chairman, if my questions are not in order I am sure you will rule them out.

**Mr. Cooper:** The paramount consideration perhaps in this whole question is the pregnant female whose life is perhaps in danger.

**Mr. O'Keefe:** Just a minute; you say not only life, but health.

**Mr. Cooper:** "The life or health of the pregnant female" is the wording of the resolution.

**Mr. O'Keefe:** Mr. Cooper, does not your proposal for pregnancy termination fly in the face of established legal principle and practices? It provides for a sentence of death imposed on a fetal human without indictment, judge or jury. I remember when the Special Committee of the Senate and the House of Commons on Divorce heard recommendations in favour of adoption of the marital breakdown concept, one of the reasons given by the Committee for rejecting the recommendation was that it would call for "abolition of our present methods of trial". Have you no concern in this case?

**Mr. Cooper:** One can get into what I consider to be a metaphysical and perhaps highly moralistic discussion as to when life begins, whether life begins before delivery of a child, and so on. As far as I am concerned, speaking personally, I do not subscribe to the view that there is a taking of human life, within my understanding of the taking of human life, involved in the passage of this resolution. Now I am expressing my personal view. I am here as official representative of The Canadian Bar Association, and having been asked for my personal views, I am expressing them.

**Mr. O'Keefe:** Mr. Cooper, will you not agree that abortion on request is much more logical than going through all these legalisms?

**Mr. Cooper:** Abortion on request?

**Mr. O'Keefe:** Yes.

**Mr. Cooper:** As I read the resolution there is an application being made. I would like to say something on that point. I would like to make it very clear that there is nothing in this Resolution, as I read it and as I understand it, that forces abortion on anybody—that forces termination of pregnancy. The pregnant female goes to a competent medical practitioner—

**Mr. O'Keefe:** Excuse me sir, is it not forced on the baby?

**Mr. Cooper:** Well, we are back, Mr. O'Keefe, perhaps to the point we were discussing a few moments ago.

**Mr. O'Keefe:** But is it not, yes or no?

**Mr. Cooper:** In my personal view, no.

**Mr. O'Keefe:** Mr. Chairman and Mr. Cooper, with this suggested Termination Board, does not your Resolution involve the law and the state in the business of decreeing who are to die before birth and who are to be born, which is against all the traditions of your profession? I put this question to you, Mr. Cooper, helpfully I hope: Why not avoid the necessity of making these decisions by having the law withdraw its protection from all fetuses during the first 26 or 28 weeks, or whenever viability is medically indicated. Would you agree that might be a logical position?

**Mr. Cooper:** I do not know that I quite appreciate the purport of the question.

**The Chairman:** Could you rephrase it as I am not quite sure that I understand your question either, Mr. O'Keefe.

**Mr. O'Keefe:** I said, Mr. Chairman, why not avoid the necessity of making these choices by having the law withdraw its protection. The baby has some protection now—not much it seems, but some. I suggest to Mr. Cooper that it would be more logical to have the law withdraw this protection, such as it is, from all fetuses during the first 26 or 28 weeks, or whenever medical viability is indicated.

**Mr. Cooper:** I must confess that I do not know what protection is given the first 26 or 28 weeks to a fetus.

**Mr. O'Keefe:** Are you a lawyer sir?

**Mr. Cooper:** Yes.

**Mr. O'Keefe:** You do not know what protection the baby is given before birth?

**Mr. Cooper:** I know the provisions of the code presently dealing with abortion. I am endeavouring to the best of my ability to answer the questions that are put before me, but I cannot cite chapter and verse on the proposition you put.

**Mr. O'Keefe:** Would you agree that our law has at least some rights built into it for the unborn? It also has a maximum absolute, as an absolute the right of an individual to life

unless he has forfeited it by his actions. Would you agree with that at least?

**Mr. Cooper:** This involves the definition of the individual, which takes me back to what I said a few moments ago, that perhaps this is a metaphysical or moral question. Now, people have different views.

**Mr. O'Keefe:** No, no; forget about the baby. Does everyone not have the absolute right to life inless he is a condemned criminal, possibly, who is to be executed? I cannot understand, Mr. Cooper, your reluctance to answer a simple question like that, or even the legal profession.

**Mr. Cooper:** I do not regard any of these questions as particularly simple.

**Mr. O'Keefe:** That a person does not have an absolute right to life—not just an unborn baby, but any person?

**Mr. Cooper:** In the context in which we are discussing this matter now that involves the question of who is a person. As I see it, yes, every person has an unqualified right to life. You immediately say, "Well then, a person is a fetus". You lead me to a conclusion which I do not intend to make.

**Mr. O'Keefe:** I am only asking for information, Mr. Cooper. Just one more point, Mr. Chairman, and then I will stop.

What about the fact that many so-called deformed people have made and are making great contributions to society and aside from the fact there is a 50-50 chance of aborting a perfectly normal child, does the Bar Association have no concern for these so-called deformed people of great personal and social worth?

**Mr. Cooper:** The Bar Association, of course, has concern for all persons who are born; there is no doubt about that.

**Mr. O'Keefe:** What concern?

**Mr. Cooper:** They also have concern for what appears to me to be a social evil today of pregnant females being under the necessity of seeking illegal terminations of pregnancy, and it seems to me that that social evil requires some remedy and some choice—

**Mr. O'Keefe:** And I agree completely, sir.

**Mr. Cooper:** —should be given to that pregnant female whether she is going to have proper attention or whether she is going to be subjected to an illegal operation.

**Mr. O'Keefe:** I agree but I suggest that your resolution—and you have not answered me—will not make this possible. It will not make the number of illegal abortions any less. You have not answered that question very clearly.

**Mr. Cooper:** I do not agree with your conclusion. I think this may be a question which cannot be answered definitively unless and until such proposed legislation is passed and statistics are collected. I do not know whether or not we are going to have the same situation here—you mentioned Sweden—after this legislation is passed, if it ever is passed. I think a lot depends on the sympathetic and proper procedures which are developed by any Termination Board or the procedures which are developed by the medical profession under the provisions of section 1(a) of this act, the actions of therapeutic abortion committees, and so on.

**Mr. O'Keefe:** I would like to continue, Mr. Chairman, but I pass.

**The Chairman:** Dr. Brand.

**Mr. Cooper:** I am sorry if I have not been as direct as I might have been, Mr. Chairman, in answering some of these questions but I wish to say that I would like to be as helpful as I possibly can and I hope that the questioner is not too disappointed with the answers that have been given.

**The Chairman:** Dr. Brand.

**Mr. Brand:** Mr. Chairman, I could not help wondering as I sat here listening exactly what it feels like when counsel is being cross-examined, where the shoe is on the other foot for a change.

**Mr. Cooper:** Well, Mr. Chairman, I do not mind at all.

**Mr. Brand:** Mr. Cooper, I think I understood you to say that the main purpose in bringing in this resolution was to help do away with the illegal abortions that are presently taking place.

**Mr. Cooper:** Yes, I would say that is one of the main purposes.

**Mr. Brand:** Do you and the Bar Association honestly believe that by legalizing what is actually going on now that you are going to do away with illegal abortions, which are usually done for reasons other than the ones stated in your resolution?

**Mr. Cooper:** There again I cannot be positive in answer to that question. One would hope with the passage of this proposed legislation that the way would be open to a pregnant female to terminate her pregnancy under proper medical circumstances and, as I see it, under most of the circumstances which would affect her, and we would certainly hope that it would have the effect of reducing illegal abortions.

**Mr. Brand:** Would you not agree that abortions under the definition of Section 1(a)—and I know of some under 1(b), as I am sure you do—are presently being done in Canada by competent physicians in hospitals which are accredited by the Canadian Council on Accreditation?

**Mr. Cooper:** I understand that abortions are being performed under section 1(a) where the life or health of the pregnant female is in danger. Now, I cannot give you the number of abortions that are being performed there. I am sure Dr. Brand would probably know more of the statistics on that question than I do.

**Mr. Brand:** How many prosecutions have there been in Canada in the last few years under this sort of section? Have they been prosecuted by the courts?

**Mr. Cooper:** We do not know of any.

**Mr. Brand:** How about under 1(b)?

**Mr. Cooper:** Of the type, that you are talking about?

**Mr. Brand:** That is the type I am talking about, the type that you are in effect legalizing by your resolution. How about under 1(b)? I am thinking, of course, of the famous British case of *Rex vs. Byrne*.

**Mr. Cooper:** I am sorry, I did not hear you.

**Mr. Brand:** I said how about under 1(b)? What about where rape, for example, has been the cause? I am thinking of *Rex vs. Byrne*, that famous case in British legal history.

**Mr. Cooper:** Is it the *Byrne* case that you are thinking of?

**Mr. Brand:** Yes.

**Mr. Cooper:** Certainly as far as we are concerned it would seem to us that this is a situation—where a sexual offence has been committed—where it should be made clear by

legislation that termination of pregnancy might be made legal under the protection of these Termination Boards.

**Mr. Brand:** In other words, the primary purpose is not necessarily to get rid of illegal abortions, which will probably go on anyway, but merely to legalize the inconsistencies which are present in the current Criminal Code.

**Mr. Cooper:** That is one of the purposes, yes.

**Mr. Brand:** One thing that concerned me here, and you explain part of it a little later on, Mr. Cooper, but my experience, and certainly the experience of most of us who are not lawyers, with boards and with the law has been that an interminable length of time is taken up in reaching great judicial decisions. I can visualize the situation, as you have no safeguards in your resolution here, no time limits or anything like this, where a child could be born while the board was still meeting.

**Mr. Cooper:** That again is a matter of working out proper procedures. Speaking personally, Dr. Brand, I do not accept the proposition as a general proposition that there are great and undue delays where boards, such as I envisage this board, are set up to deal with specific situations.

**Mr. Brand:** Are you suggesting, Mr. Cooper, a board which sits continually or one that is called only at the call of the chairman? If you have one board in a province the size of Ontario, for example, and you have a case away up in North Bay, or even one in the Northwest Territories, for that matter, it seems to me that the mechanics of getting this together could be extremely difficult.

**Mr. Cooper:** I would agree that problems might very well present themselves in the area that you suggest. This resolution is put forward as a serious attempt to accomplish the objectives which have been discussed here. It might very well be that time limits and procedures will have to be worked out, but it is very difficult in any resolution of this type to get down to questions of when and where boards are going to sit, and that sort of thing. I am sure Dr. Brand will appreciate that many of these matters are left to regulation and that powers to make such regulations are given in the main statute. I would hope that in the establishment of any Termination Board there would be a provision

whereby regulations could be passed under the authority of the main statute and I would hope that they would be sensible regulations which would overcome possible difficulties as you suggest.

**Mr. Brand:** But you are in effect giving this Termination Board quasi-judicial powers.

**Mr. Cooper:** Yes, I think one would have to say that, or one should say that, because there is a decision committed to that board to determine whether or not reasonable and probable grounds of the nature set out in 1(b) exist. And I think that when you have any board which has the power to determine reasonable and probable grounds you are getting into an area that requires a decision.

**Mr. Brand:** This leads to my next question, of course. Did you consider the use of a judge with an advisory panel—a member of the judiciary?

**Mr. Cooper:** No, there was no suggestion in my best recollection of the debate on this subject that a judge should necessarily be a member of the Termination Board.

**Mr. Brand:** I am curious about that because you are, in effect, dealing with life and death. Whether you call it a human being or not, it is still life and death, is it not? And, if you are dealing with such, you are going away from the judiciary into a board. Do you think this is a wise type of manoeuvre? They have something like this, I believe, in Vancouver in deciding who can live or die on the few kidney machines they have in British Columbia. I have serious doubts about this type of thing. I wonder if this is a wise step on the part of The Canadian Bar Association?

**Mr. Cooper:** This is a point, of course, which one certainly can take. I do not think it would be a practical answer to say that a member of the judiciary sits on a board of this type. He has his judicial duties to perform. On the other hand, I would quite agree, Dr. Brand, that tremendous care would have to be taken in the appointment of persons who are going to exercise, as you put it, quasi-judicial powers. But, of course, people in this country exercise quasi-judicial powers in the magistracy and so on. In some instances they are not even qualified lawyers.

**Mr. Brand:** That is true only in certain provinces.

**Mr. Cooper:** That is quite true, Dr. Brand.

**Mr. Brand:** It certainly is not true in my province. I just wanted to show you how far ahead we were in these matters.

One other question. In Section 4 on page 3 you make the point about written consent. It is a rather curious use of legal phraseology. Perhaps you could explain this to me. In such instances where the person

"is under the age of 21...or has been certified as mentally incompetent under the appropriate provincial legislation. In such instances the Board may require written consent..."

In other words: not "shall" but "may". Why "may"? In other words, can the Board decide over the protests of the guardian to carry out an abortion?

**Mr. Cooper:** That particular wording is permissive. There is no doubt about that.

**Mr. Brand:** Yes.

**Mr. Cooper:** "...may require written consent from the parent or guardian as the case may be..." I find it difficult to visualize a case where over the protests of a guardian or parent this matter would be proceeded with.

**Mr. Brand:** Why did you not say "shall"?

**Mr. Cooper:** Dr. Brand, that may be a good question.

**Mr. Brand:** In section 5—and I presume this may be just an exercise in bad grammar on the part of The Canadian Bar Association; I do not know—but do you mean that the "pregnancy can only be terminated by a duly qualified medical practitioner when specifically so authorized by the Termination Board in a duly licensed hospital"? Are you suggesting that the Termination Board meet in a duly licensed hospital?

**Mr. Cooper:** No.

**Mr. Brand:** Or are you suggesting a duly qualified medical practitioner in a duly licensed hospital when specifically so authorized and so on? Is this what you mean?

**Mr. Cooper:** Dr. Brand, your grammar is an improvement on that of the Association.

**Mr. Brand:** It does change the meaning to a certain extent.

**Mr. Cooper:** I agree that that is a point. There is no doubt about that.

**Mr. Brand:** Why do you have the alleged offenders coming before your Board?

**Mr. Cooper:** Pardon?

**Mr. Brand:** What is the purpose of having the alleged offender? Is this not taking him before a quasi-judicial board even though the evidence may not be used against him as you suggest? Is this not putting him in an unusual position? For what purpose would you suggest that the alleged rapist—I presume that is what you mean here—would be brought before this Board to decide whether or not a pregnancy should be terminated? I am just curious. It seems a bit strange.

**Mr. Cooper:** It is to determine whether or not there has been a sexual offence and to enable a decision to be arrived at as to whether or not there are reasonable and probable grounds.

**Mr. Brand:** In other words, you are putting him on trial?

**Mr. Cooper:** No, I do not agree with that.

**The Chairman:** Dr. Brand, the point there again is the word "may" rather than "shall".

**Mr. Cooper:** That is right.

The applicant, the alleged offender and in the discretion of the Board any other interested person may appear with counsel.

If the alleged offender wants to appear he may appear with counsel. And it seems to me that is giving him a privilege and the only result of this determination is whether or not Section 1(b) is going to be operative or whether it is not. There is no trial there.

**Mr. Brand:** Yet there is, is there not, in a sense?

**Mr. Cooper:** I do not subscribe to that view.

**Mr. Brand:** Perhaps not from the legal point of view but let us look at it from the viewpoint of the rapist or the alleged sexual offender. He is called before this Board—and you can do this if you like in camera or any other way you want—and everybody in town is going to know he was called there. Do you think that is fair? That is my last question, Mr. Chairman. I understand the necessity but I am wondering about the mechanism. I will let you think about it—perhaps later.

**Mr. Cooper:** That is all right, Dr. Brand. It is a little difficult to pick out specific phrases and specific words and give specific interpretations of what is going to happen in circum-

stances which have not yet arisen. I am not trying to evade the question.

**Mr. Brand:** I know what you mean, yes.

**Mr. Cooper:** It is a little tricky.

**Mr. Brand:** Thank you very much, sir.

**Mr. Forrestall:** Mr. Cooper, thank you very much for being with us today and thanks also to The Canadian Bar Association for their very obvious attempt to make some real and meaningful contribution to what is going to be a problem for a lot of us over the next few months.

Mr. Cooper, I wonder if we could go back to what led The Canadian Bar Association to prepare this resolution. Was it by invitation or did some outside influence lead to the Bar's considering this?

**Mr. Cooper:** No, not through any invitation from any outside source. As you probably know, The Canadian Bar Association operates through various national Sections which concern themselves with matters within the purview of each of the Sections, then Subsections are organized in provincial Branches. Now, one of the national Section is the Criminal Justice Section and they intimate certain studies in certain areas where they consider that it might be advisable or where they consider that the law should be reformed or that new legislation should be introduced to correct situations which they think are in need of correction. The Criminal Justice Section, in the course of its work—and I believe it started in 1965 or, perhaps, 1964—took this subject of termination of pregnancy as one of the matters which they would study and which their Section would deal with. And, as a result of that, as I have explained, a resolution was duly passed by the Criminal Justice Section which came up in the course of procedure that we have in the Association to the general membership for debate and decision.

**Mr. Forrestall:** Then this is a natural process from within?

**Mr. Cooper:** That is correct. I would like to make it very, very clear that from my experience the Association and I think the Secretary will bear me out in this, does not take direction—that is perhaps too strong a phrase—or does not get into a matter such as this, or other matters which may be the subject of public discussion or controversy, at the instance of some outside body. The Association does what it can to assist by appearing before

royal commissions and that kind of thing but, of course, I do not believe that is the area of discussion which you have initiated.

**Mr. Forrestall:** You mentioned a bit earlier, Mr. Cooper, that the text of the resolution was circulated amongst members of the Bar. Was it circulated to all 11,000 of them?

**Mr. Cooper:** I will let the Secretary answer that question. He can speak with greater authority than I because this material all goes out of the national headquarters of the Association here in Ottawa.

**Mr. Merriam:** The answer is, yes.

**Mr. Forrestall:** What response did you get from the members of your Association?

**Mr. Merriam:** You are now asking if we were deluged with letters and replies, and what have you? No.

**Mr. Forrestall:** You mean to say that you received no replies or did you receive some replies?

**Mr. Merriam:** We did.

**Mr. Forrestall:** What was the gist of them? Was it commendation or—

**Mr. Merriam:** Some favoured it and some were against it.

**Mr. Forrestall:** What was the balance?

**Mr. Merriam:** The balance, in the final analysis, was obviously in favour.

**Mr. Forrestall:** I am not asking you to be specific but did you receive a thousand replies?

**Mr. Merriam:** Oh, no, no.

**Mr. Forrestall:** Did you receive 200?

**Mr. Merriam:** No. We probably did not receive more than a dozen.

**Mr. Forrestall:** About a dozen replies out of 11,000.

**Mr. Merriam:** It is prior to the annual meeting that we are talking about and they knew it was coming up for full discussion at the annual meeting.

**Mr. Prittie:** I wonder if Mr. Forrestall would permit a related question? Have provincial bar associations passed similar resolutions at their own conventions? If you cannot answer now, perhaps—

**Mr. Merriam:** No. It has been on a national level, so to speak, almost from its inception because it is a matter dealing with the Criminal Code which, of course, is a federal statute and within the organization of our particular Association there has been no reason to have this referred to each provincial Branch as such.

**Mr. Cooper:** Mr. Chairman, I would like to ask if your question was directed to whether or not provincial Branches of the Canadian Bar Association had dealt with this subject or whether law societies of the various provinces had passed resolutions? You see, there is a difference; the Canadian Bar Association is organized in such a way that there are Branches of the Association with a vice-president at the head of each Branch in each of the provinces and then, aside altogether from that and from the organization of the Canadian Bar Association, there are provincial law societies in each province which in some provinces are far more concerned with matters of admission of solicitors and barristers to practice, and that type of thing. I did not quite know whether you were speaking of the provincial Branches of the Canadian Bar Association or whether you were speaking of the law societies.

**Mr. O'Keefe:** Should they both be concerned?

**Mr. Prittie:** I did not know what he was speaking of either, Mr. Chairman. I did not realize the distinction. I have in the files somewhere that either in Ontario or British Columbia, or both, the Association—whether it is the provincial Branch of the Bar Association or the law society I am not certain—passed regulations on this subject.

**Mr. Forrestall:** Mr. Cooper, my concern in this area of questioning is what percentage of these 11,000 distinguished Canadians, who are members of our Bar and of our communities and are usually leading and distinguished citizens, are morally prepared to go to the extent that is implied in your resolution?

For example, in Section 1(a) I can agree with the first principle enunciated there but I find it very, very difficult to understand what evidence you might have had before you which led you to say "or there is substantial risk". How do you determine "substantial risk" when the medical profession itself is not all that certain about it? I am not asking a specific question here but I am concerned about whether individually the 11,000 mem-

bers of The Canadian Bar Association would morally endorse this.

**Mr. Cooper:** All I can say, Mr. Forrestall, is simply that every association must act through its general meetings and must speak in the end with one voice. I think in this matter the executive of the Association has given every member of the Association an opportunity to consider this matter and to speak to it at general meetings of the Association. You see, at the first meeting when the matter was considered, which was the general meeting in Toronto—and for the very reason, Mr. Forrestall, that you are advancing now—the resolution was deferred until the next annual meeting in order that all members be given the opportunity to consider it and to express any views they wished to express on it. Now, of course, there was publicity through the press, there was specific notification to every member of the Association relating to the proposed resolution and there was a well-attended meeting at Winnipeg when the matter came up again. As I said, I have the transcript of that meeting here and it runs to some 100 pages. The Association can only deal with matters in that way. When all these steps have been gone through and a resolution is passed I think that one is entitled to say that this is the consensus of the members of the Association.

**Mr. Forrestall:** This is a true consensus, which is perhaps what I was after more than anything else.

I am also concerned about what would lead the Bar to reach some other conclusions. What type of evidence was summoned before the committee that was charged with the drafting of this prior to its presentation to your Association? Did a particular committee of your Bar call in the Canadian Medical Association? Did you call in some—

**Mr. Cooper:** Mr. Merriam is more familiar with this area than I am because, as I said before, he was on the committee of The Canadian Bar Association and I think he chaired the joint committee of the Canadian Bar Association and the Canadian Medical Association which dealt with this matter. Therefore I am going to ask Mr. Merriam to be good enough to answer your question, Mr. Forrestall.

**Mr. Merriam:** Can we go back just one step before that? As Mr. Cooper pointed out, this originally emanated from our Criminal Justice Section. As a result of the experience of a

number of lawyers in the criminal law field it led them to the conclusion that there was something wrong with our abortion laws as they stand today and that they needed review. These were men from both the prosecution and the defence side. They may have had to prosecute somebody for having performed an illegal abortion. Perhaps a woman has been admitted to a hospital under very tragic circumstances and she dies within the next 24 hours and the prosecution has to institute proceedings against an individual for an illegal abortion. The defence had seen these girls coming in either before they had been able to arrange an abortion or they saw the effects of them, and all of this led these men who were experienced in the criminal law field to feel that something had to be done or at least it had to be reviewed.

As Mr. Cooper said, it came up at the 1965 annual meeting from that Section. One of the questions that was raised was, what does the Canadian Medical Association think of this? We were instructed at that meeting to sit down with representatives of the Medical Association and discuss this whole question with them from their point of view. We did that. Three representatives of the Canadian Medical Association were present, all of whom were specialists in obstetrics and gynaecology who had wide experience in that field. We met in Ottawa on two occasions for a full day each, at which time this matter was discussed in detail both from a legal and a medical point of view.

**Mr. Forrestall:** Mr. Merriam, did you go farther afield than the medical profession? Did you go to the various religious denominations in Canada for an opinion?

**Mr. Merriam:** No.

**Mr. Forrestall:** You confined it pretty generally to outstanding people in the medical field and your own field?

**Mr. Merriam:** Yes, that is correct.

**Mr. Forrestall:** So this is divorced entirely from any moral considerations; you approached it from a purely legalistic or professional point of view?

**Mr. Cooper:** May I say, Mr. Chairman, that although approaches were not made to different denominations of the church, nevertheless in the debate full reference was made to pronouncements and I believe that the authorities were correctly cited. Full reference was made to the views of various religious

denominations on this subject. I think, Mr. Forrestall, if you look at the proceedings you will agree that those who presented the position of the churches really did a great deal of work in drawing together the statements of position that had been taken by the denominations. I am sorry, Mr. Chairman, to interrupt. I am sure Mr. Forrestall probably has—

**Mr. Forrestall:** No. Probably my time is up. I want to ask one more brief question. In this type of meeting you must have come up with some statistics. Does The Canadian Bar Association have any figure that they use which might, in their opinion, represent the number of attempted illegal abortions in Canada annually, for example? We hear of figures ranging from a few thousand to many, many thousands, but you did not use any specific figure as a measurement?

**Mr. Cooper:** None that I am aware of. There was no specific figure mentioned, as I recall it, in the discussions at the general meeting.

**Mr. Forrestall:** Mr. Merriam, would you have any figure that you might suggest would represent an approximation?

**Mr. Merriam:** No, Mr. Forrestall. I will tell you why. This was discussed at some length in the meeting of the committee to which Mr. Cooper has referred and to which I referred a moment ago, and also at the annual meeting and it was the consensus that there is no reliable figure available in Canada. From the point of view of the lawyer involved in this, this is a substantial problem, an important problem and a difficult one, but to put a figure on it—nobody felt that the figures were reliable enough to justify it on that basis.

**Mr. Forrestall:** It is always nice to have a distinguished Haligonian with us.

**The Chairman:** Before we pass on to Mr. Chatterton I was going to ask Mr. Cooper, because of the interest in the meeting of The Canadian Bar Association from which you quoted several times, if it might not be possible to put a copy of the minutes in the hands of the Clerk of the Committee so that anyone here who wishes to study what went on at your meeting can do so, if it is not a confidential document.

**Mr. Cooper:** No, it is not confidential.

**The Chairman:** I think that might be most useful to the members of the Committee who are interested in what The Canadian Bar

Association had to say. If you could make one of these available to us—

**Mr. Merriam:** I am sure I can arrange to do that, Dr. Harley.

**Mr. Forrestall:** Thank you. That would clarify the thought, because many of us are very much concerned about the problem.

**The Chairman:** Fine, thank you very much.

**Mr. Chatterton:** Mr. Chairman, my questions are more to seek an explanation of your resolution. As I take termination of pregnancy in the case of a sexual offence—that is Section 1(b)—can take place only after the decision of the proposed Termination Board.

**Mr. Cooper:** I am sorry, Mr. Chatterton; I did not quite get the meaning of your question. I missed the first few words.

**Mr. Chatterton:** Termination of pregnancy in the case of a sexual offence—that is Section 1(b) in your resolution—can take place only after decision by the proposed Termination Board.

**Mr. Cooper:** The Termination Board must find reasonable and probable grounds to believe that a sexual offence has been committed, and that pregnancy has resulted from that sexual offence.

**Mr. Chatterton:** And this Termination Board under your proposal is to be established by the provinces.

**Mr. Cooper:** That is correct.

**Mr. Chatterton:** Has your Association considered what would happen if the Criminal Code is amended according to your suggestion, and one or more provinces fail to establish such a Termination Board?

**Mr. Cooper:** Yes, that subject was discussed and the point was made that what if province A has a Termination Board and province B has not? Would that not lead to undesirable results in that the pregnant female would seek the procedures, or would make an application to the Termination Board in another province where one was established? That situation was discussed, but despite the difficulties that might arise in the circumstances you mentioned, it was felt that nevertheless the resolution should be passed in the form in which it is.

**Mr. Chatterton:** In Section 1(a), where "there is substantial risk that the child may

be born..." and so on, who is to be the judge as to whether there is risk to the life or the health of the mother or the child?

**Mr. Cooper:** The judge there must be the medical practitioner, or the judges must be medical practitioners, because Section 1(a) does not require any decision of the termination board. I believe I am correct in saying that the Medical Association is clearly of the opinion that that question belongs to the realm of the medical profession alone, and should not be the subject of proceedings before a Termination Board.

**Mr. Chatterton:** Mr. Chairman, on page 3, Section 4, it is stated that where the pregnant female is under 21 years of age the Board may require the written consent of the guardian or parent. It could happen that a girl of 19 or 20, who is a pregnant woman, wants the termination, and the guardian or parent may say, no; or vice versa. She might not want it and the parent or guardian could say, yes.

**Mr. Cooper:** Mr. Chatterton, that question was raised earlier, and the suggestion was made that perhaps this word "may"

In such instances the Board may...

• (12.20 p.m.)

should be "shall". But if that were done, of course, and consent was not forthcoming, I would say that the Termination Board would be powerless to make any order. But to come back to the "may" and the "shall", I did say that perhaps—I am speaking personally—the "may" should be "shall"; but when one thinks of it again, there may well be situations where there just is no possibility, or no practical possibility, of getting consent from a parent or guardian, who might be in another country, who might be anywhere. Therefore, on reflection, I think "may" is probably the appropriate word in that context.

**Mr. Chatterton:** But from the operation of Section 4, it is possible that a termination of pregnancy could take place against the will of the pregnant woman if she is under 21, even though she is mentally sound.

**Mr. Cooper:** Not against the will of the pregnant woman because here we are only talking about consent from the parent or guardian, as the case may be, and from such other persons as it deems advisable, but it must be remembered that there must be an application to this Termination Board.

**Mr. Chatterton:** By such woman.

**Mr. Cooper:** By such woman.

**Mr. Chatterton:** Even if she is under 21.

**Mr. Cooper:** Even if she is under 21. And I would rather like to stress that as I understand and as I see the resolution, and as I understand the intention of the Association, I think I can say with certainty that the intention of the Association is not to compel a pregnant female to undergo termination of pregnancy, but that the way is open for the pregnancy to be terminated under the circumstances set forth in the resolution.

**Mr. Chatterton:** May I just ask this: was the age of 21 chosen for some legal reason? Why not 18, for example?

**Mr. Cooper:** Twenty-one was chosen, as far as I am aware, because it is the age of majority.

**Mr. Chatterton:** Thank you.

**Mr. Ballard:** Mr. Chairman, I think possibly my questions will be on a different tack. I feel, Mr. Chairman, that The Canadian Bar Association has not gone far enough in liberalizing the grounds under which a female can obtain an abortion. I commend the Bar Association for section 1(a) which more or less extends and gives respectability to the situation as it now exists in Canada. I think section 1(b) is a step forward.

I would like to think that we had reached the stage in our society when we would consider women to be an integral part of our society and would give them the option of deciding whether or not they should be bearing children. I am thinking particularly of the case of a woman who has four, six or twelve children and who decides that she does not require a larger family. I would have liked to have seen some provision to include these people.

The only thing with which I disagree in your submission other than that which has already been made is the make-up of the so-called "Termination Board". I see absolutely no justification, Mr. Chairman, for placing two barristers on this board and I see absolutely no justification for placing two social workers with a minimum qualification of Bachelor of Social Work on the board. I contend, in so far as the problem outlined in section 1(a) of the resolution is concerned, that the decision is to be made by qualified medical practitioners, that there is no reason that the other phases of this abortion resolution could not also be decided by medical practitioners. If it should be decided that

more people are needed on the board, then I would suggest that we follow the practice of British justice of having a person judged by his peers and the four other people on the board should probably be female. I would think that a female appearing before seven male members of a board would feel her status as a woman was prejudiced. I would much rather see a board made up of the required number of medical practitioners, with the remainder of the people being women.

**Mr. Cooper:** I notice in section 1(a) that you have broadened the present permissible use of abortion where there is a substantial risk of a child being born with a grave mental or physical disability. I wonder how accurate is the prognostication of the possibility of grave mental or physical disability and how early in pregnancy this can be determined?

**Mr. Cooper:** That question probably could be better answered by the medical profession than by myself. Under this resolution the medical profession would be responsible for making that decision. I think that the thalidomide experience dictated, to some degree, the inclusion of this clause in section 1(a) of the resolution, but it is a matter for the medical profession. I understand the Canadian Medical Association's resolution on this subject has the same wording as our section 1(a).

**Mr. Ballard:** Mr. Cooper, I notice also that in section 1(a), to which you referred, it says that these things should take place in hospital accredited by the Canadian Council on Accreditation. Do you know what percentage of hospitals in Canada are accredited by this association and what would happen if an accredited hospital were temporarily without the benefits of accreditation?

**Mr. Cooper:** I am subject to correction, but as I recall the discussion—and I am sure the medical people present would have these figures at their finger tips—approximately 25 per cent of hospitals in Canada are accredited by the Canadian Council on Hospital Accreditation and the 25 per cent of hospitals so accredited have approximately 80 per cent of the hospital beds in the country. That subject was raised and discussed at the meeting.

**Mr. Ballard:** I wonder about the number of people in Canada who would be denied the accessibility of these hospital beds if this wording were left as it now is. I do not expect you to even answer that question because I think it is just a matter of opinion.

**Mr. Cooper:** If I may say so, I would think, Mr. Chairman, that probably these questions could be answered by the Canadian Medical Association in a way that would be more helpful to the Committee than Mr. Merriam or myself. I have given you all the information I have on the number of hospitals and beds. The conclusions to be drawn from the availability of beds and so on, could be spoken to with far more authority by the Canadian Medical Association.

**Mr. Ballard:** I wonder then if I could approach it this way. You have set up a board of seven people: three doctors, two lawyers and two other people. I suggest that to get this combination of people, you would have to go to a city or a very large centre. I am wondering about the problems that might be met by a person from a town like Hay River, Alberta, which is away up in the north country—you would have to fly out from this town—or some place in Northern Ontario where there is only one doctor, probably no lawyer and certainly never a Bachelor of Social Work. You are saying to the people who live in the smaller communities that they have to make a trip to the city in order to go through this procedure.

**An hon. Member:** "Urban abortion" would be a good name for it.

**Mr. Ballard:** That is right; "urban abortion" would be a good name for it.

**Mr. Cooper:** I suggest that in many other instances persons living in remote areas must make a journey to seek services of one sort or another or appear before boards. I am not saying for one moment that that is the ideal situation, but the geography of this country being what it is, I do not know how one can get around difficulties along the lines that you are suggesting.

**Mr. Ballard:** I wonder if you would agree, then, to a suggestion that the make-up of the Termination Board both as to numbers and qualifications be established by the provincial government rather than by the federal government?

**Mr. Cooper:** Well, the Termination Boards will be established by provincial governments.

**Mr. Ballard:** Yes, but in your resolution you are trying to predetermine the make-up of that Board.

**Mr. Cooper:** The resolution sets out the occupations and the professions of the persons that shall be members of that Board. But I will point out—and I would like to make this clear—that the description of the Termination Board in Section (2) commences:

—it is suggested that the Board be constituted by seven (7) members;

Therefore, the resolution avoids stating definitely that it has to be seven members and the composition of the Board itself with respect to professions. I think the way is open under the resolution as it has been passed for a change by any province in the number of members of the Board and the professional occupations of those who are on that Board.

**Mr. Ballard:** Mr. Chairman, I fail to see the justification for this resolution determining or even suggesting the occupation of any of these members of the Board other than the medical profession.

**Mr. Cooper:** Mr. Chairman, the reason barristers and solicitors are suggested is that it is considered that paragraph 1(b) involves really a legal question or quasi-legal question, the determination on reasonable and probable grounds of belief that a sexual offence has been committed. Now, it was considered rightly or wrongly by the Association that the answer to that question would be better given if persons trained in the law were on the Termination Boards to bring their minds to bear on the question. In so far as social workers are concerned, we are in a field here with which social work is intimately concerned. Going back to a point you made earlier, social workers and the other occupations might be either men or women. Many, many competent women are Bachelors of Social Work and, I am sure, outnumber men in that field. They are extremely competent people.

**Mr. Ballard:** I agree with you in so far as B.S.W.'s are concerned, but I do not agree with your argument that there should be barristers on the Termination Boards, nor do I agree with it in so far as Bachelor of Social Work is concerned, because if you carry this concept a bit further, you could say there is also a moral question in the concept of abortion and therefore you must have two members from the Ministerial Association.

**Mr. Cowan:** I was going to say that later.

**Mr. Ballard:** You must have representation from a minister or a priest at these hearings and I do not agree with that. Mr. Chairman,

apart from that I think most of the points have been covered fairly well by others, but I do think that we should recognize the dignity of women and in this particular instance we should have the Board composed, wherever possible, of female members of our population.

**The Chairman:** Dr. Isabelle, you are next.

**Mr. Isabelle:** Mr. Cooper, you had better put your ear piece on, because I am going to speak in French.

**Mr. Cooper:** I must apologize that I am not sufficiently competent in the language to be able to dispense with the aid of the ear piece.

(Translation)

**Mr. Isabelle:** I wish first to express regret that the French press is not represented here. It is often said that members of Parliament do not work. Now, there is only one committee sitting today and no representative of the French language press has shown up.

(English)

**Mr. Cooper:** I am going to ask one question. Is The Canadian Bar Association a subsidiary of the American Law Institute?

**Mr. Cooper:** No.

(Translation)

**Mr. Isabelle:** I am very happy to hear this.

(English)

Can you hear?

**Mr. Cooper:** No, this is not working.

**Mr. Isabelle:** Put it on the other side.

**An hon. Member:** It is not working.

**Mr. Isabelle:** I will do my best in English. In your resolution there is nothing new. I think it is a copy of a model bill that was presented in 1959 by the American Law Institute which would allow a panel of doctors to sanction therapeutic abortion when the pregnancy results from rape or incest, offers a clear threat to the physical or mental health of the mother, or could be reasonably expected to produce a badly deformed or retarded child. Apparently this is exactly the same; you have changed this board of doctors to a Termination Board which includes other persons, like judges and lawyers. I wonder if that would not increase the fee that the woman would pay for an abortion. I do not see why this has been put in because it is a

delicate matter. Those boards have been tried in the United States for four or five years. I will quote from the RN review of June 1966:

Some years ago therapeutic abortion boards—usually made up of specialists—were organized in many hospitals to screen abortion requests. The boards have generally proved unsatisfactory for these reasons:

1. Board members may disagree as to the indications for and against abortion.

Now, if the medical profession cannot agree on this important matter, how could lawyers and judges be expected to agree? I will continue:

2. The consultations may take so long that the delay makes the abortion no longer feasible.

3. Because of consultation costs, only comparatively well-off women can afford certification for legal abortion. (For example, two psychiatrists may be required to attest to the probability that a patient will commit suicide unless her pregnancy is terminated—one of the most frequent reasons given for justifying legal abortion.)

This may cost a lot of money and if you add judges and lawyers to that, you are not at the end.

A recently completed 10-year study shows that legal abortion today is confined largely to those who can afford the cost: In 65 major U.S. hospitals, therapeutic abortions were performed four times as often on private patients as on service and ward patients.

In the United States there are about 1.5 million abortions a year, and of those only about 8,000 are done legally. I would like your point of view later, but I think it is the old question of rich and poor. Unless you deal with poverty in Canada, or anywhere else, no law will prevent abortion. The practice between rich and poor at present, and this has been written by an Anglican—as they call it in Scotland, an Episcopalian—is that the poor go to the back street abortionist who merely tampers with the pregnancy and leaves the hospital to clear up the mess, while the rich are reputed to pay large fees to get the job done in one operation. So, instead of paying \$1,000 for this therapeutic abortion board, all you have to do is pay \$150, the \$140 air fare to Japan and \$10 for the fee. You can come back the same week.

This law has existed for many years. What should be done? Perhaps it could be widened a little and made more definitive than are the existing clauses 207 or 206.

I do not understand why or how the Canadian Bar Association could put section 2 in the resolution. Perhaps it was done early in the morning or late at night; I do not know. It appears to be a copy of what the American Institute did in 1959.

**Mr. Rock:** More jobs for the lawyers!

**Mr. Isabelle:** Yes; that is what I think. We have the statistics before us. I do not think we should try to do something which, for five or six years, has been proven to be completely inefficient in the United States. This is why I thought you were a subsidiary of the American Bar Association.

**Mr. Cooper:** To comment generally, Mr. Chairman, on what has just been said, I would like to make it absolutely clear—and I do not know that I have succeeded in doing that up to this time—that this Board only operates under 1(b) where there are reasonable and probable grounds to believe that a sexual offence has been committed from which pregnancy has resulted. That is the only circumstance under which this Board operates. If I correctly understood what has been read out, the Boards in the United States operated in a wider field. There is just that one question under 1(b) with which the Boards would be concerned. The rest of the matter would be left entirely to the medical profession.

**Mr. Isabelle:** Yes; but if you consider rape the same thing applies; and rape falls under (b).

**Mr. Cooper:** Under (b); provided, of course, that on other grounds, namely, those set out in 1(a), a doctor could not come to the conclusion that the pregnancy should be terminated. Now, if a woman comes to a doctor complaining of a sexual offence the doctor comes to a conclusion. He puts the sexual offence out of his mind and considers the patient as a pregnant female desiring termination of pregnancy. If the doctor comes to the conclusion that continuation of the pregnancy will endanger the life or health of the pregnant female, or that there is substantial risk that the child may be born with a grave mental or physical disability, then 1(b) would not enter into it. If, however, the doctor comes to the conclusion that he cannot perform this operation, or that the operation should not be performed

because neither of these two conditions is met, then you are faced with the complaint of the pregnant female about the sexual offence, and then the matter is dealt with by the Termination Board.

However, I feel confident in assuring you, sir, that this resolution is not a copy of the American one. We are a little more independent in our thought than that.

**Mr. Knowles:** It is your own conception, is it?

**Mr. Cooper:** Well, judging from some of the views that have been expressed perhaps it should be said that it is our own offence!

**Mr. Isabelle:** That is all. Thank you, sir.

**Mr. Rynard:** Mr. Chairman, most of the things that I had in mind have been pretty well covered, but I would like to ask Mr. Cooper a question on the accreditation by the Canadian Council on Accreditation. To my mind, this is discriminatory, because there are many hospitals in Canada that are not accredited.

Furthermore, I do not see why, in this particular case, the opinion of two doctors should be required as to the necessity. There are some very good practitioners working in hospitals that are not accredited. It seems to me that this is discrimination. I fail to see why a person who is not fortunate enough to live in say, the city of Toronto, or in London, or in some big city, should be discriminated against. Therefore, I feel that it would be quite reasonable to assume that the opinion of two legally qualified doctors would be accepted.

I am also concerned with Dr. Isabelle's point that it is going to increase the cost. I really cannot see the necessity of having this Termination Board. Surely two doctors would be capable of assessing whether or not there had been an offence. What are you going to gain by bringing it to a Termination Board? The board would be considering the same problem that would face the doctors, and the latter could settle it at much less cost. I believe that most doctors practising today would deal conscientiously with this.

Again, of course, as Ray Ballard mentioned, there is the person who is living in, say, the Northwest Territories. How in the world are you going to deal with a Termination Board? You are not going to be able to do a thing about illegal operations because of the difficulty of getting there. This again is discrimination.

I do not think we can accept this resolution as it is presently worded. I think it has to be completely redrafted.

**Mr. Cooper:** There is no doubt, Doctor, that in a hospital accredited by the Canadian Council there will be views expressed on the phraseology and by the Canadian Medical Association on the necessity of approval by the Therapeutic Abortion Committee. This is an area in which the Canadian Bar Association has endeavoured to co-operate fully with the Canadian Medical Association. I understand that 1(a) represents the views of the Medical Association. Perhaps we had a misconception of 1(b) but we thought it would be advisable to insert it there when viewed from the standpoint of the doctor. It seemed to us that we were putting a doctor into the position of making a determination that he had reasonable and probable grounds to believe that a sexual offence had been committed. It seemed to us that this was not strictly a medical question and that a doctor would be glad to have the determination of this question made by a board.

**The Chairman:** Thank you, Mr. Cooper.

**Mr. Rynard:** This brings up the cost of the administration and the availability of this Termination Board to somebody that lives at a distance away from members of the qualified medical profession. I would suggest that only in cases in which two doctors cannot agree or they cannot be sure of their ground and they would like this referred to such a board that this be added. This will cover the point you raised.

**Mr. Cooper:** Mr. Chairman and Doctor Rynard, these are questions with which this Committee will have to struggle, and I do not envy their task. I think it is a difficult subject and one on which strong views are held on both sides but this represents the considered views of the Association put before you for your consideration.

**Mr. Rock:** Mr. Cooper, it has been said by some members of this Committee that the cost would be prohibitive if we created boards like this. In fact, I feel that it will cost as much for an abortion as it does for a divorce, and I believe that there will be as much collusion as there is in divorce cases today. As you know, Parliament is trying to bring in legislation to lower the cost of a divorce and to change the reasons for divorce.

Does a single girl appearing before a board, claiming rape by collusion, first have to prove

the charge of rape in a criminal court? I do not think you have indicated this.

**Mr. Cooper:** Oh, no; the matter would come before the Termination Board. There would not have to be a prior conviction for rape. That is not envisaged by this resolution.

**Mr. Rock:** This is what I mean. Therefore, it will be very easy for any woman through collusion to claim that she was raped.

**Mr. Cooper:** The girl appears before this board and alleges that a sexual offence has been committed from which pregnancy has resulted.

**Mr. Rock:** Yes.

**Mr. Cooper:** She makes that allegation.

**Mr. Rock:** And all she needs is a witness to prove it. She may get anyone to say, "Yes, I did rape her."

**An hon. Member:** Just as in a divorce case.

**Mr. Rock:** Yes, just as in divorce cases where witnesses are retained and everything is all nicely set out. You lawyers know that this is going on every day.

**The Chairman:** I am sorry, but I am missing your point. Surely if a man got up and confessed to that, he would be subject to about 20 years in jail.

**Mr. Rock:** No, not necessarily because, according to the resolution, you cannot use this in any other court action. It is in camera and there could be a lot of collusion. The same man could keep turning up. Do you not agree, Mr. Cooper?

**Mr. Cooper:** That is one reason this composition of the board has been suggested. If the board is going to act on insufficient evidence and is going to get into a position where it is rubber stamping applications, a theory I just refuse to accept, then perhaps there is some validity in the point you are making, sir. I have more confidence in boards than that.

**Mr. Rock:** There is just a judge, so to speak, and if the witnesses' claim of rape is reasonable there is no other alternative but to allow the abortion. Can you indicate in the former resolution before this one, as amended, was adopted, whether some of the members wanted to go a little further than you did in the reasons for allowing an abortion.

**Mr. Cooper:** The earlier resolution had the three points mentioned here in this one: endangering the life or health of the pregnant female, substantial risk that the child may be born with a grave mental or physical disability, and the sexual offence provision. Those three provisions have been present throughout the discussions in The Canadian Bar Association. In the course of this resolution going through certain amendments were made. Some of those amendments related to wording but, essentially, these three points were in the prior resolution.

**Mr. Rock:** There were no phrases or wording such as "the well-being of the pregnant woman?"

**Mr. Cooper:** I can recall no such wording. I have to qualify that by saying that before answering specific questions on specific wording I would have to go back to the prior resolutions. However, it is my very clear recollection that these three points have persisted throughout the discussions.

**Mr. Rock:** Mr. Cooper, I am going to ask you to express a personal view. Do you personally feel that we should go a little further, adopt a more liberal attitude, and allow an abortion to any woman who, through her own conscience, chooses to have one?

**Mr. Cooper:** Personally, I do not subscribe to that view. This is my own personal view.

**Mr. Rock:** Do you feel that we men are qualified to understand the feelings and the anxieties of pregnant single women and the problems that they must face, and are we qualified to judge these matters?

**Mr. Cooper:** I think that the medical profession is qualified to judge with respect to 1(a) and I think that a Termination Board of the nature suggested is qualified to judge with respect to 1(b). On the Termination Board it certainly might be advisable to have social workers. Perhaps other members of the board should be females. I am not suggesting for one moment that this board necessarily should be an all-male board.

**Mr. Knowles:** Why not wipe out the difference between 1(a) and 1(b) and let the medical men decide all the cases? After all, it is a case of the health of the female whether she is a married woman, raped, or becomes pregnant voluntarily.

**Mr. Cooper:** After consideration of the point that has been raised the Association

thought it advisable that the medical profession should not be asked to be the sole judges in an area where it has to be determined whether or not there are reasonable and probable grounds to believe that a sexual offence had been committed. Maybe we have gratuitously inserted something which the medical profession does not want.

**Mr. Knowles:** You are putting it on the basis of right and wrong rather than on the basis of health.

**Mr. Cooper:** Yes. It seemed to us that the question of whether or not there was a sexual offence was one which required a decision and that it was not purely and simply a medical question. 1(a) concerns a purely medical matter but we do not think the same is true of 1(b). We thought, therefore, when dealing with 1 (b), that these decisions should be made by the board we have suggested.

**Mr. Rock:** Mr. Cooper, your resolution will not get rid of the back room boys, the illegal abortionists in this country, and I think you are aware of that. However, you did say that to some degree it would do that. From our discussions it would seem that the area you are covering now is one in which, in most cases, doctors would perform an abortion anyway.

**Mr. Cooper:** Mr. Merriam has a comment here.

**Mr. Merriam:** This relates to what Dr. Brand said a short time ago. I think everybody recognizes that abortions are being performed in Canada today under therapeutic conditions, but there is one very serious defect, and that is the great uncertainty in the law, as it stands today, on whether or not under those conditions an abortion is legal. It then becomes a question of whether or not the female in this position can get a doctor who is prepared to perform a therapeutic abortion.

There are many highly reputable physicians and surgeons in this country who, for reasons completely dissociated from their own moral thinking, refuse to perform a therapeutic abortion on the grounds set out in Section 1(a) of this resolution, simply because they feel that the law is so uncertain that they would be leaving themselves open to possible prosecution. It is true that such prosecutions have not taken place, but if they seek legal advice they will be advised that there is this possibility. Therefore, they say: I am sorry, Miss So-and-so, or Mrs. So-and-so, I cannot perform this abortion for you. The

pregnant woman is then left in the position of having to go to the back room boys.

I do not think that we, as an Association, are suggesting that an amendment to the code such as is visualized in our presentation is going to do away with all back room abortions, any more than having a penalty against murder in the Criminal Code does away with all murders.

It does seem to us, however, that if you can clarify this for the reputable, highly trained physician and say that in those circumstances he and the woman are perfectly within their legal rights if he performs an abortion, then you will take at least a percentage of these abortions out of the back room and put them into a responsible hospital with the proper conditions and the proper care. If you do this, surely over a period of time you are going to save the lives of a great many women who are forced today into a situation where they endanger their lives; and in many cases they lose them.

**Mr. Rock:** On your last point, the cases involving danger to, and the saving of, lives constitute only a small percentage of the number of abortions that are performed in this country. This means that there are still thousands and thousands who are endangered. It seems that we here are doing nothing whatsoever to remove this danger which exists because women are using the back room boys rather than professional medical people to perform these operations.

**Mr. Merriam:** But if it is a legitimate case you can protect the reputable, highly trained physician and make him available. Surely this is going to take a number of them out of the back rooms.

**Mr. Rock:** Should we not go a little farther than that? I asked Mr. Cooper this previously, but I would like to ask you, personally: Should we go a little farther and extend, beyond rape, grounds upon which women can have an abortion?

**Mr. Merriam:** You are almost suggesting abortion by consent or by request.

**Mr. Rock:** I am just asking for your opinion on this matter. We, as members, would like to know the opinion of most of the witnesses on this. I do not think it is right for us to get opinions only in a narrow sense. I would like to know the opinion of practically every witness on how far they would like to see the Committee go.

**Mr. Merriam:** Certainly, as far as the Association is concerned, I do not think it is prepared to go to that extent. It is not prepared to go any farther than is set out in this resolution.

**Mr. Knowles:** How much farther are we going, Mr. Chairman?

**Mr. Rynard:** Just one point before we close off this discussion. It may have been a slip of the tongue on Mr. Merriam's part but he used the term "responsible hospital". I feel he should either clarify that or indicate what he means.

**Mr. Merriam:** If I used the words "responsible hospital" it was a slip of the tongue, doctor.

**Mr. Rynard:** I thought it was; and I knew you would not want it to appear on the record that way.

**Mr. Merriam:** No, I did not. Thank you.

**The Chairman:** There are still several members who have questions, but perhaps we could finish off. As you know, the Committee does not have authority to sit while the House is sitting, but perhaps we should push on and hear a few more questions.

**Mr. Cowan:** Is the Committee allowed to sit while the seventh game is on?

**The Chairman:** I had not even thought of that, Mr. Cowan. We will continue regardless. It may limit some of the questions.

**Mr. Cooper:** We had a full discussion on that subject, Mr. Chairman, before the Committee convened this morning, and we were wondering about it.

**The Chairman:** I am sorry, I neglected that very important point.

**Mr. Cowan:** We do not know; Boston may have won by now.

**The Chairman:** There are still three members, I believe, who wish to ask questions.

**Mrs. MacInnis (Vancouver-Kingsway):** Is the only way in which Section 1(a) differs from the present legislation in the matter of clarification? Is there any other essential difference?

**Mr. Cooper:** Mr. Chairman, I am just looking up a note I had on the present legislation.

**Mrs. MacInnis (Vancouver-Kingsway):** Is it not true that there are two contradictory sections in the present legislation?

**Mr. Cooper:** The present state of the criminal law is covered by sections 209, 37, 38 and 150 of the Criminal Code. I will not elaborate on these various sections, but I know of no provision in the present code covering the second point in 1(a), which reads:

...there is substantial risk that the child may be born with a grave mental or physical disability...

**Mrs. MacInnis (Vancouver-Kingsway):** Secondly, in line two of the resolution you use the words "life and health". Was it the intent of the Bar Association to have "health" cover physical and mental or just physical health?

**Mr. Cooper:** It was the intent of the Association that it cover both physical and mental health.

**Mrs. MacInnis (Vancouver-Kingsway):** It would be capable of being so interpreted?

**Mr. Cooper:** In my view, yes.

**Mrs. MacInnis (Vancouver-Kingsway):** I also wanted to ask whether, under the existing Criminal Code—and I do not want to get into a lot of theological argument—there is a definition of the stage at which the foetus becomes a human being?

**Mr. Cooper:** No, I know of no definition section which answers that question.

**Mrs. MacInnis (Vancouver-Kingsway):** My fourth point relates to your comment about co-operation with the Medical Association. Was the termination board discussed with the Medical Association?

**Mr. Cooper:** I will ask Mr. Merriam to answer that, as he was on this joint committee. I believe the answer is yes, but Mr. Merriam may wish to enlarge slightly on that.

**Mr. Merriam:** Mrs. MacInnis, there was discussion with the committee of the Canadian Medical Association with whom we worked.

**Mrs. MacInnis (Vancouver-Kingsway):** What was the result of that discussion?

**Mr. Merriam:** When members of that committee understood that, in effect, the whole purpose of the termination board was to determine whether or not a sexual offence had been committed, or that there were reasonable grounds for believing so, they accepted the concept.

**Mrs. MacInnis (Vancouver-Kingsway):** The representatives of the Medical Association there accepted the concept?

**Mr. Merriam:** They did at our meeting. I gather that when it reported back the Association itself, did not.

**Mrs. MacInnis (Vancouver-Kingsway):** Did the Bar Association at any time consider putting all abortions under the authority of the termination board?

**Mr. Merriam:** Our original resolution did embrace that concept, yes. It was following these discussions with the representatives of the Medical Association that we revised our approach to that now set out in the resolution.

**Mrs. MacInnis (Vancouver-Kingsway):** Would I be correct in saying that your original approach was that abortion was not purely a medical matter but had legal and social implications?

**Mr. Merriam:** I suppose one could say that the original resolution, as Mr. Cooper mentioned earlier, was drafted without the benefit of having consultation with the representatives of the medical profession and was being looked at, I think, almost entirely from the point of view of the law, the legal concept of abortion and how one protects various interests and what have you. Once we had the benefit of a very frank and full discussion with representatives of The Canadian Medical Association I think we were all convinced that this new approach was by far the better one.

**Mrs. MacInnis (Vancouver-Kingsway):** I do not want to ask any more questions but I just want to express the opinion, as Dr. Isabelle said, that this Board generally is clumsy and puts more difficulties in the way of the poorer people having a chance to have equality in this matter.

• (1.15 p.m.)

**Mr. Isabelle:** My I ask a question just to clarify a point? Did you say that you were at the joint committee with the CMA and The Canadian Bar Association? Is that what you said?

**Mr. Merriam:** Yes.

**Mr. Isabelle:** You explained then, regarding this Section 1(a) and (b), when you said that

they endorsed this first resolution, Section 1 of the resolution...

(b) where there are reasonable and probable grounds to believe that a sexual offence has been committed from which pregnancy has resulted.

Did you say that they agreed?

**Mr. Merriam:** That they accepted the proposition that there should be a board to determine whether those "reasonable and probable grounds" existed.

**Mr. Isabelle:** Did they agree on that?

**Mr. Merriam:** They did.

**Mr. Isabelle:** They did?

**Mr. Merriam:** The members of the committee agreed.

**Mr. Isabelle:** The members of the committee did agree on that, but the general assembly did not agree.

**Mr. Merriam:** I gather not, because the resolution that the CMA eventually passed does not include it.

**Mr. Isabelle:** Thank you.

**Mr. Brown:** Mr. Chairman, I am just going to comment briefly on Mr. Cooper's testimony. I believe, Mr. Cooper, you went to some pains to explain to us the functions of the Termination Board which would only be called together when a question came up under Section 1(b); that is, where there are reasonable and probable grounds that a sexual offence has been committed. Well then, could you explain to us the meaning of Section (5) on page 3, which says that

A pregnancy can only be terminated by a duly qualified medical practitioner when specifically so authorized by the Termination Board...

Does that not contradict that? In other words, no pregnancy can be terminated without the Termination Board's being brought in. It occurred to me as I was reading this.

**Mr. Cooper:** If there is a contradiction there, it is certainly not the intent. It is rather difficult to visualize the two things coming together; that is, the legislation in the Criminal Code and the legislation here.

**Mr. Brown:** Would you not agree with me that—

**Mr. Cooper:** That may require some amendment.

**Mr. Brown:** I would think so because this would be bad.

**Mr. Cooper:** As a matter of fact I had underlined it myself before I came in this morning in case the question would be raised. The intent is clear and if this resolution does not carry the intent that I have expressed, well then Section (5) would certainly have to be altered. But, of course, the Termination Board—and perhaps this is not a sufficient answer to your question—would only have jurisdiction under Section 1(b) and, therefore, when it is stated that “a pregnancy can only be terminated...” that pregnancy must be a pregnancy resulting from a sexual offence because that is the only thing the Board can deal with. But I would agree that there is need for further consideration of that section.

**Mr. Brown:** Thank you. Now then, could you also explain to us briefly, just once again, if it is the intention of The Canadian Bar Association by their resolution for setting up termination boards that there would be one board for each province?

**Mr. Cooper:** That is what is contemplated.

**Mr. Brown:** I gathered that but it does not say that. There could be several boards.

**Mr. Cooper:** There is one board mentioned in the suggested legislation. Mr. Merriam perhaps considers, and perhaps he might express his view, that the way would be open for the setting up of more than one board.

**Mr. Brown:** Mr. Chairman, just one final question. I do not want to prolong this. I did have a number of questions but Mr. Cooper helped us a good deal in his answer to Mrs. MacInnis in connection with the need for a proposed change, where he explained the law at the present time and went to a little length explaining the law as it exists in the Criminal Code at the present time and its present seeming inadequacy. Could you enlarge a bit on that inadequacy, Mr. Cooper, or did you pretty well cover it in your answer to Mrs. MacInnis?

**Mr. Cooper:** I consider that I have pretty well covered it and I think it was covered, if I may say so, extremely well by Mr. Merriam in answer to a previous question.

**Mr. Brown:** Thank you. That is all.

**Mr. Knowles:** Mr. Chairman, at this hour I will cut out most of what I wanted to say. I would like to support the contention of Mr. Ballard, Dr. Isabelle, Mrs. MacInnis and perhaps others that we may have to go further than The Canadian Bar Association has suggested. Perhaps, Mr. Cooper and Mr. Merriam, I made my point when I interrupted during Mr. Rock's questioning but let me repeat my question: do you not think that we may have to come to a wiping out of the difference between Section 1(a) and Section 1(b)? Some of those who have questioned you feel that there is unfairness in the set-up of this Board. If there is one board in a province like Ontario, or Quebec, or any province except Prince Edward Island, I would say, all sorts of people who need to get to that board will not get to it. You get into all kinds of discriminations and problems. I feel basically that if a woman is seeking an abortion, whether it is because of her health condition or she is in an unhappily married home, or whether it is a result of rape, or whether it is a result of misconduct or what have you, fundamentally it is a health question. I do not think that the person who has committed an offence, or had an offence committed against her, should have any less concern for her health than others have. I would like to suggest that you consider doing away with the Board or wiping out the difference between 1(a) and 1(b) and putting it in the hands of doctors—whether it is two or three, or two and another two, or what have you. In other words, I think we have to do a bit more thinking. If we do not agree after this morning perhaps the matter should be looked at further.

**Mr. Cooper:** Mr. Chairman, all I can say is that this is the Resolution of The Canadian Bar Association from which, of course, I have no authority to depart in any particular. This Committee will be hearing a great deal of evidence and will have many witnesses before it. The question of doing away with this distinction is one which, of course, this Committee will have to give very serious consideration to. If I may speak personally, and I specifically make it clear now that I am expressing a personal view, I can see the point of view expressed by Mr. Knowles as to the fact that the whole matter is a health question. At the moment I personally would not be prepared to go that far and do away with the Termination Board. I still think that the question of determining reasonable and probable grounds for coming to a conclusion whether or not a sexual offence has been

committed is not exclusively a medical one, and that the suggestion of a Board has great merit. Of course the Committee will consider that.

**Mr. Knowles:** In any case, you are not wedded to the actual draft you have put in front of us, but your Association does feel we should at least clarify the law on abortion.

**Mr. Cooper:** I think that that is a fair statement.

**Mr. Cowan:** Mr. Chairman, I have a number of questions I wish to ask the President of The Canadian Bar Association. First, I will go through this Resolution.

It states in 1(a):

...that the child may be born with a grave mental...

Can you tell me how a doctor can distinguish between what is going to be a "grave mental disability" or a minor mental disability by simply looking at a pregnant woman?

**Mr. Cooper:** Mr. Chairman and Mr. Cowan, I cannot answer that question definitively because it is one for the medical profession. I would presume—and I am only presuming now—that having approved that wording, they consider that it is something which can be determined. That is all I can say.

**Mr. Cowan:** The Bar Association would be in favour of having minor mental cases born but not "grave mental" cases.

**Mr. Cooper:** Mr. Chairman, the Bar Association is in favour of the text in 1(a).

**Mr. Cowan:** It is rather rough when you say that a matter concerning grave mental or physical disability should be referred to the medical association. I do not like that.

**Mr. Cooper:** Well, I do not mean that in any sense as—

**Mr. Cowan:** Dr. Harley got the point.

**Mr. Cooper:** I do not mean that in any sense. If I have created any impression that we are trying to shift responsibility for this Resolution onto the Medical Association, I would like the record to be absolutely clear that that is not so. All that I was trying to do was to stress the fact that we have co-operated with the Medical Association and, conversely, the Medical Association has co-operated with us, and we hope it will continue.

**Mr. Cowan:** As you know, they say doctors get the opportunity to bury their mistakes but lawyers get paid a second time, on appeal. I was just referring to the "grave" medical question. In 1(a) "grave" has nothing to do with the medical profession. You said it referred to the medical profession.

This Committee is indebted to Mr. Ballard and Dr. Rynard for having drawn your attention to the fact that although 1(a) of this Resolution says:

...in a hospital accredited by the Canadian Council on Accreditation...

not all hospitals are accredited by the Canadian Council on Accreditation. I understand that you are from Halifax. I presume you know that the Ottawa Civic Hospital is one of the great hospitals in Canada.

**Mr. Cooper:** I am certainly aware of it. I am very proud to say that my second son was born in that hospital.

**Mr. Cowan:** I am glad to hear it. Did you know that hospital had its accreditation withdrawn for some period of time?

**Mr. Cooper:** No, I did not.

**Mr. Cowan:** I just draw that to your attention. That particular phraseology in 1(a), as passed by the Bar Association, is certainly faulty. I might say that it did not do the Ottawa Civic Hospital any harm to have its accreditation withdrawn at the time it was withdrawn. What it did to the Council on Accreditation is another matter for discussion.

In subsection (5) on page 3 it states as follows:

A pregnancy can only be terminated by a duly qualified medical practitioner when specifically so authorized by the Termination Board in a duly licensed hospital.

In answer to Mr. O'Keefe's question you pointed out the very serious consideration given to this matter by The Canadian Bar Association, how it was discussed in all your chapters, in all the court rooms, and so on. Although I am not a lawyer, 1(a) says it has to be a hospital accredited by the Canadian Council on Accreditation. However, (5) indicates that you are willing to take any duly licensed hospital. Those are two quite separate groups. I admit that accredited hospitals are duly licensed but duly licensed hospitals, which have my entire backing, form a much wider group of hospitals than those accredited by the Canadian Council on Accreditation.

When The Canadian Bar Association passes one Resolution which has those two divergent paragraphs in it, it shows faulty writing and faulty consideration. I want to draw your attention, as President of the Association, to that fact. Now that is a fact, it is not something that needs to be referred to the medical profession or to the Canadian Hospital Association.

You are a lawyer. Paragraph (2) says, in part:

...approved by a "Termination Board" which means any special board duly established under any provincial statute...

I do not want to see this law passed or being advocated but, as a Canadian, if it is passed by any provincial legislature I will observe it, and I would ask all other Canadian citizens to observe it.

What is the idea behind the next clause:

...or by the Lieutenant-Governor in Council of a province...

If the legislature does not pass such a termination bill, does that mean that you would be willing to have the Lieutenant-Governor in Council do so?

**Mr. Cooper:** On this second part, "That The Canadian Bar Association recommend to the appropriate authority in each province that an act be passed by the Legislature of that province to create a Termination Board in the following terms", I agree that it is "in the following terms" but the wording that follows, in my view, is not intended to be so sacrosanct that each provincial legislature and each legislative council in each province could not draft this bill or was not intended to draft it in any different phraseology. This expresses the intent of the Resolution.

**Mr. Cowan:** But if a provincial government refused to pass a provincial statute, would you argue that if the Lieutenant-Governor in Council passed it, then that must have the effect of law.

**Mr. Cooper:** No, not at all, sir.

**Mr. Cowan:** I am referring to the very bottom of the first page.

**Mr. Cooper:** I consider that provision to take care of the situation where you have an act passed to set up, or approving of the setting up of Termination Boards, and under such an act the Lieutenant-Governor in Council would have the necessary authority

under the statute to establish such boards. But I would agree with you that—

**Mr. Cowan:** I agree with what you have just said, sir. It is that word "or" which burns me up.

**Mr. Cooper:** Well, as I say, when the time comes, if it ever does, when these Termination Boards are set up, I am sure that the small words in here will be put into a form which will be acceptable to everybody.

**Mr. Knowles:** We might have to see a lawyer.

**Mr. Cowan:** I am reading from paragraph 4 on page 2:

A full report of all applications for the termination of a pregnancy, whether made to the therapeutic abortion committee of a hospital or to a Termination Board, and whether or not such application is approved, shall be made to the Deputy Minister of Health of the province in which such application is made within thirty days of the decision of such committee or Board and shall include, inter alia, a statement of the findings and result of such therapeutic abortion.

At what time in the life of the foetus would you consider that you were performing an abortion or performing a murder. Because the foetus is considered to have a life of nine months this brings in the element of time. When would the application be made to the Deputy Minister of Health? If it was made in the eighth month, would that be considered an abortion?

**Mr. Cooper:** I do not think, sir, that there is any application made to the Deputy Minister of Health. It states:

A full report of all applications for the termination of a pregnancy,...

Those applications are not made to the Deputy Minister of Health but are made in accordance with the other provisions of the proposed legislation. As I understand it sir, this is merely a provision to provide statistical records of the results of any legislation that might be passed pursuant to this Resolution.

**Mr. Cowan:** The point that I have been trying to make, sir, in this connection has to do with time. As a lawyer and President of The Canadian Bar Association, I am sure you are well aware that Mr. Shakespeare has referred to the law's interminable delays. This

phrase was first brought to my attention by an outstanding Toronto lawyer.

**An hon. Member:** Intolerable or interminable?

**Mr. Cowan:** Interminable. You have heard of the law's interminable delay? You must be aware of it.

**Mr. Cooper:** Yes, of course.

**Mr. Cowan:** Well, what would happen if one of these unfortunate women, as you call them, applied for the right of an abortion and the law's interminable delay gets in the way? The child is born, and then it is ruled that she can have an abortion; what happens then?

**Mrs. MacInnis (Vancouver-Kingsway):** They would make it retroactive.

**Mr. Cooper:** Well, I would hope that if this proposed legislation were passed, we would not have interminable delays.

**Mr. Cowan:** As President of The Canadian Bar Association do you think that interminable delays could be eliminated?

**Mr. Cooper:** Certainly. Under this procedure, yes.

**Mr. Cowan:** I like to meet optimists; they are my favourite people. At the bottom of page 2, it says:

two (2) persons qualified as barristers...

The point I wish to bring up there is that I presume you are bringing in two persons qualified in legal law. Why would the Bar Association not want two people qualified in the moral law? It says here:

three (3) persons qualified as medical practitioners, two (2) persons qualified as barristers—

—that is the legal law—

—and solicitors, and two (2) persons who are practising social workers...

Why not have two, or some representative, of the moral law as represented by the clergy?

**Mr. Cooper:** It is suggested that the board be constituted by seven members. Now, the Association felt that the persons provided to be on that board, classified by occupation or by profession, would be an adequate and satisfactory board. This Committee may have other views.

**Mr. Cowan:** Do you feel that representatives of moral law should be excluded from that board?

**Mr. Cooper:** Mr. Cowan, I can only point to Section 2 and the resolution of which you have a copy on that question.

**Mr. Knowles:** A doctor or a lawyer might know something about moral law.

**Mr. Cowan:** I will agree with regard to doctors, Mr. Knowles. On page 4 it says:

All hearings of the Board shall be held in camera and communications, evidence or reports submitted to the Board shall not be admissible in evidence at any other proceedings except for the purpose of proving an inconsistent statement by the pregnant female in such proceedings. The applicant, the alleged offender...

Thank God for this—

...may appear with counsel.

The alleged offender may appear with counsel. What is to prevent the person seeking the abortion from alleging that any male is responsible for her condition? It does not have to be proven in an open court. The alleged offender may never have seen the woman before; he may be there because of the payment of a fee. I want to ask you, sir, how often could one man appear as an alleged offender without somebody starting to laugh or ask questions?

**Mr. Cooper:** Well, I think that one must have some confidence in these Termination Boards.

**Mr. Cowan:** I am talking about the person applying for the termination.

**Mr. Cooper:** If a person applies for a termination and an alleged offender appears, and the same alleged offender appears the next day before another board, I would have more confidence in boards than to think that they are going to have one alleged offender becoming a professional offender.

**Mr. Cowan:** I am not questioning the board; I am talking about the one applying for the abortion.

**Mr. Cooper:** The pregnant female?

**Mr. Cowan:** Yes. That is the one I do not have confidence in; I am not questioning the integrity of the board, particularly if there are two barristers on it; it would be above

suspicion. I am questioning the integrity of the pregnant female as to whom the alleged offender may be, when I am told that many women could not tell you who is the one responsible for their condition. I ask how often an alleged offender would be allowed to be the same person? They could make nice fees that way. They are not going to be convicted; they are just alleged to be the cause of the pregnancy.

**Mr. Cooper:** Well, perhaps I have not been able to make myself clear on that. I think, sir, that you are now addressing your remarks to what I termed a moment ago the professional alleged offender, and I would think surely that with a sensible board such as I would visualize, a man would not be able to put himself into that occupation and make a success of it.

**Mr. Cowan:** He might make money out of it. It is interesting that the alleged offender may appear; there is no compulsion on the man so accused to appear. He can just be accused, and he does not need to be there at all to defend himself before the board. Imagine the money you could get that way, stating "Sure, I am going to Rochester, New York, over next week; if you are going before the board you can use my name for \$50 or \$100". You see, he does not have to appear; it just says that he may appear.

**Mr. Cooper:** I suppose there is no procedure before boards or other bodies not subject to abuse. I have enough confidence in the composition of the boards that abuses would certainly be kept to an absolute minimum. I suppose there is no guarantee, at some point or another, against abuse of the process of a board or a court.

**Mr. Cowan:** I was asking how often a male might appear as the alleged offender. How many times a year could a pregnant female appear and ask for an abortion before she was considered to be a professional of some kind? Would there be a limit on the number of times? That you can be tried only once for an alleged offence is, I believe, a cardinal principle of law. How many times a year could a woman apply for an abortion?

**Mr. Cooper:** I would think about once a year would be the limit.

**Mr. Cowan:** Then you would deny them the right to an abortion if they were to appear a second or third time during the year? We should consider this point.

There is another aspect in Section 4 on page 3 where you state:

The condition of pregnancy can be terminated only with the written consent of the pregnant female unless the pregnant female is under the age of 21 years at the time of application or has been certified as mentally incompetent under the appropriate provincial legislation. In such instances the Board may require written consent from the parent or guardian as the case may be—

Suppose a guardian is responsible for the pregnant condition of a ward and he refuses consent. What would be the procedure then?

**Mr. Cooper:** Well, I must confess that is a situation to which I have not directed my mind.

**Mr. Cowan:** I was a newspaper reporter for several years and I covered three cases where the guardian was responsible for the pregnant condition of the ward.

**Mr. Cooper:** Well, Mr. Cowan, in such instances the board may require written consent from the parent or guardian. However, as I understand it, the board could proceed without that written consent.

**Mr. Cowan:** I was merely bringing the point to your attention sir. You were emphasizing to Mr. O'Keefe the great consideration that the Bar Association had given at its meeting in Winnipeg to all facets of this very serious question that affects the welfare of the whole country, as I am sure you will admit.

Now sir, when you were answering Mr. O'Keefe I took some notes. He was asking you when you thought life too place in the foetus. The answer you gave to Mr. O'Keefe was: "I am not going to be drawn into the question of whether the foetus is a person".

**Mr. Cooper:** I do not remember the precise words I used, but I am not quarrelling with your notes, Mr. Cowan.

**Mr. Cowan:** It will appear on the tape.

You are a lawyer and you must be a distinguished one or you would not be President of The Canadian Bar Association. Why is it that in Thellusson's law, dealing with accumulations—and I am sure you are aware of it because people in Nova Scotia have been accumulating for generations—a person cannot say how an estate can be administered

beyond a period of 21 years plus the period of gestation, which has been taken to be nine months? As a lawyer, you must admit that there is life in that nine-month period or why is the nine-month period inserted into Thellusson's law?

**Mr. Cooper:** That is an area of the law which deals with a subject other than that which we are dealing with now. The law has adopted this rule against perpetuities which is a very, very old law and a very old rule in law. It is a technical rule of law. That is really all that I can say concerning it.

**Mr. Cowan:** Are not lawyers admitting that there is life in the foetus for nine months when they say that Thellusson's law should apply to 21 years plus the period of gestation?

**Mr. Cooper:** I do not think that one can draw a parallel between the two situations.

**Mr. Cowan:** Maybe you do not mean "cannot". Probably you should... I do not want to put words in your mouth. "Should not", is that it? Because I can draw a parallel between it. It will allow you to say I should not but I do not know that I will accept your statement that I cannot.

Now, sir, I was sorry to hear you make the comment—I have it down here. You referred to "the social evils of pregnant females" when you were answering Mr. O'Keefe.

**Mr. Cooper:** Oh, well now, I am sorry if I... Social evils of pregnancy in its widest concept or widest connotation. I... far from ever saying that pregnancy in itself is a social evil...

**The Chairman:** I do not remember that statement.

**Mr. Cowan:** I would say this, Mr. Chairman. I am certain the witness did not intend to use it, but it really gave me a little surprise. I know the way these things occur, sir. I happen to have a daughter expecting a child in Charlottetown either tomorrow or Saturday, and outside of the fact it is going to be born in the Maritimes I did not realize there was any social evil attached to the pregnancy.

**Mr. Cooper:** If I used that phrase I am very glad of the opportunity to correct it.

**Mr. Cowan:** I felt that, too; but some loose words have been used in discussing this question, I regret to say.

I have one final question: the suppose Termination Board finds that a sexual offence, according to this resolution, has been committed and allows the destruction of the foetus. If, later on, the man is hauled into court, charged with a sexual offence and acquitted, what do you do with the foetus then?

**Mr. Cooper:** The abortion would have taken place by that time.

**Mr. Cowan:** I have no more questions.

**Mr. Stanbury:** Mr. Chairman, in view of the time I will try to be brief. I would be interested to know whether or not at the time of preparing this resolution The Canadian Bar Association had had the benefit of studying the bill which has since become law in Britain?

**Mr. Cooper:** Not at the time of preparing this resolution. I think at that time the bill was in the House of Lords, and reference was made to it during the discussion; but the text of the bill was not before the meeting. As a matter of fact, I think I am quite right in saying that it had not been passed into law at that time.

**Mr. Stanbury:** Therefore, you believe that your members did not have the benefit of studying the bill or the discussions about it in committee in the British Houses of Parliament leading to the passage of the Medical Termination of Pregnancy Act?

**Mr. Cooper:** Our meeting was in 1966, and I think I am correct in saying that the discussions in committees in the House of Lords and Commons took place—

**Mr. Stanbury:** Mostly since then, I think.

**Mr. Cooper:** Yes, mostly, to the best of my recollection.

**Mr. Stanbury:** Has any subcommittee of your Association made any study of this British law since its passage?

**Mr. Cooper:** No, not that I am aware, as a specific study.

**Mr. Stanbury:** Is there in your Association an active committee or subcommittee that might be studying, or might undertake to study it in relation to your resolution and make comments to us in the light of the British act which has intervened between the preparation of your resolution and these hearings?

**Mr. Cooper:** Let me put it this way: If the Association were asked to study this bill and give you the benefit of its views I am sure such an invitation would be accepted.

**Mr. Stanbury:** Personally, I would be most grateful, if you and the Chairman think it would be possible to have this information within the next few weeks before our hearings are completed?

**Mr. Cooper:** The difficulty would be that we cannot amend the resolution which is before you without having a general meeting.

**Mr. Stanbury:** I appreciate that, but perhaps we might have the benefit of the opinion of at least a subcommittee which publishes reports from time to time. Many of your subcommittees publish reports of their own opinion from time to time.

**Mr. Cooper:** It would be the opinion of a subcommittee and could not be represented as the views of the Association.

**Mr. Stanbury:** I am not asking that it be represented as anything other than what it would be.

**Mr. Cooper:** I would like Mr. Merriam to deal with that point. We might be in a little difficulty there. As Mr. Merriam points out, to be of assistance we could get the members of the committee which met with the Canadian Medical Association to put some time and effort into this. But you will, of course, appreciate, I am sure, that the views expressed would be the views of that committee.

**Mr. Stanbury:** My chief concern is the inclusion in this resolution of things which have been clearly considered and rejected by the British Parliament, and most particularly the idea of making special provision in the act for sexual offences. This is a provision which the British avoided, and for very good reason, I believe, as witness the difficulties which have been so apparent in the discussion of the Termination Boards which you have suggested. My personal concern is that these Termination Boards would become a legal jungle. This is something which very often our profession is accused of trying to create, and I am sorry to see that your Association seems to me to be proposing something which is quite unworkable and had you had the opportunity of considering the discussions in Britain I think perhaps you might have come to the same conclusion. I would like to understand, if I can take a moment to do so, some

of the details of your proposal for Termination Boards so that I can perhaps judge better whether or not my concerns are ill founded.

You have said in paragraph 1(b) that there should be reasonable and probable grounds to believe that a sexual offence has been committed from which pregnancy has resulted before the Termination Board goes into operation at all in any particular case. Who decides whether or not there are those reasonable and probable grounds? Would there be an application to the Board to decide that?

**Mr. Cooper:** That is what I would visualize, yes.

**Mr. Stanbury:** There would be two hearings probably for each case; one to determine whether or not the Board had any jurisdiction in the case and one to judge the merits of the case.

**Mr. Cooper:** No. I would visualize that the pregnant female would make application to the Board and alledge a sexual offence from which a pregnancy had resulted. The Board would then enter upon its inquiry to decide whether there were reasonable and probable grounds for this belief.

**Mr. Stanbury:** If it were satisfied of that, then it would proceed immediately and the applicant would have to have her entire case ready at the same time.

**Mr. Cooper:** Yes.

**Mr. Stanbury:** It seems like quite a lengthy procedure. This raises another question. I am curious to know whether or not there has been any discussion with the medical people concerning the question of the delays involved in such hearings as opposed to the safety factor in the prompt medical attention that should be given to an applicant. It seems to me that I recall hearing that the safety of the operation to the mother sometimes depends on its being carried out in a matter of days or hours.

**Mr. Cooper:** This was a concern.

**Mr. Stanbury:** If a person lives some distance from the place where the Termination Board meets, if there is some difficulty in bringing together such a Board, it seems to me that you may be causing an additional hazard to the life of the mother in forcing her to wait for an operation until your Board has gone through its legal procedures.

**Mr. Cooper:** This was a consideration present in the minds of the medical profession.

**The Chairman:** May I say that it is not just a question of hours or days, but that the earlier it is done the easier it is to do, in a medical sense.

**Mr. Stanbury:** So that the longer the delay the more risk there is to the mother.

**The Chairman:** Correct.

**Mr. Stanbury:** That was my understanding. You suggest that provincial governments establish these boards. What if some do not? Do you not see people being forced or tempted at least to shop around and chase after the Board—the closest Board that they can find?

**Mr. Cooper:** There might be a question there, yes.

**Mr. Stanbury:** In paragraphs 3 and 4 you deal with the hearings being in camera and a full report being made to the Deputy Minister of Health of the province but you do not deal with whether or not a record of cases is available to the public, either a record of the cases being dealt with by Termination Boards or a record of the cases that have been reported to the Deputy Minister of Health. Would you anticipate that these records would be available to the public?

**Mr. Cooper:** I would anticipate that the records would be in the possession of the Deputy Minister of Health and would be classified under a health act as either public records or not as public records; but I would admit. . .

**Mr. Stanbury:** You have not dealt with that.

**Mr. Cooper:** The point specifically has not been pressed.

**Mr. Stanbury:** It is a fairly important point though, is it not?

**Mr. Cooper:** Yes, it is.

**Mr. Stanbury:** Mr. Cowan has referred to the difficulties in section 4 of your model bill for the Termination of Pregnancy Act. Do I understand correctly that you are not suggesting that the husband of a married woman has any interest in the termination of her pregnancy?

**Mr. Cooper:** This is section 4.

**Mr. Stanbury:** Section 4 of your model bill.

**Mr. Cooper:** No, there is no suggestion there of that.

**Mr. Stanbury:** Do you feel that he has no interest in the pregnancy of his wife, whether it is the life, incipient life or potential life of his child, or is the husband rated as an offender?

**Mr. Merriam:** Yes, that was discussed but it was felt in the final analysis that it is the woman's life or health that is at stake. Not the husband's.

**Mr. Stanbury:** That may be a tenable argument but I wanted to establish whether or not you had rejected any right of the husband to be consulted or to give his consent.

**Mr. Merriam:** This was discussed in our committee.

**Mr. Stanbury:** And you consciously rejected his right.

**Mr. Merriam:** We consciously rejected the right of a husband to say or to determine that his wife must die if necessary in order that that child be born.

**Mr. Stanbury:** That is putting it a little strongly, is it not?

**Mr. Harley:** If I may interject once, for the medical profession, I would say that to my knowledge no doctor would perform the abortion without a husband's signature.

**Mr. Stanbury:** I think that in any event, Mr. Chairman, if this Committee intended, after hearing all the evidence, that a husband should be consulted on the fate of his potential child that should be mentioned. It should not be left to the assumption of some other medical ethic or some thing.

Then, you go on to say that in the instances where the pregnant female is under 21 or has been certified as mentally incompetent the Board may require written consent from the parent or guardian, as the case may be. Do you suggest this as being in addition to getting the mother's consent where she is under 21 or would you. . .

**Mr. Merriam:** Mr. Stanbury, you are getting into a legal problem there, and this was thinking in terms of the protection of the doctor in the final analysis. Consent of a person under 21 is of no particular value to the doctor.

**Mr. Stanbury:** I am afraid that very often bills that are prepared by doctors and lawyers

are concerned more with the protection of the doctors than they are with that of the individual. My concern here is the protection of the girl under 21. I think under your proposed act she could be forced to have an abortion or in fact she could be forced not to have an abortion, simply because she is under 21, if her parent or guardian gave her consent to the Board and if the Board thought it was in her best interest. You do not even suggest that she should be consulted.

**Mr. Merriam:** In the first place she has to make the application.

**Mr. Stanbury:** Even if she is under 21?

**Mr. Merriam:** Yes. It is the pregnant female that makes the application. The Board then may—and it is permissive only—require the consent or may not.

**Mr. Stanbury:** I am sorry but would you point out to me where it says that the application must be made by the pregnant female?

**Mr. Merriam:** Well again, the whole concept of this resolution, as Mr. Cooper pointed out earlier, is in no sense trying to make an abortion obligatory on anyone. It is an entirely permissive step a pregnant woman may take if he so desires.

Mr. Stanbury, as far as wording is concerned we can go through this resolution and probably pick out various words and phrases that may not be too happily chosen but it is certainly not the intent of this resolution that anybody be forced into an abortion.

**Mr. Stanbury:** I am glad to hear that but it seems a little strange to me that you as the parent body of lawyers in Canada would propose a resolution which is so completely full of holes as this one is. It is not very much help to the Committee, I suggest, to have a model bill placed before us which, if in fact any legislature in Canada passed it, would be considered incompetent as well as ill-advised. If it is not your intention that Section 4 permit the aborting of a woman without her consent when she is under 21, I suggest it does not so provide.

**Mr. Merriam:** With respect, Mr. Stanbury, that was not intended to be a model bill.

**Mr. Stanbury:** It says here "the parent or guardian". Do you mean, in the case of two parents, either parent?

**Mr. Merriam:** Mr. Stanbury, let me answer it this way. We hear a great deal about guidelines today. In a sense all this is intended to

be is a guideline. The details, the precise wording and the precise mechanics from a drafting point of view, are certainly going to have to receive much more study than has been given to it. All we are suggesting in this resolution—certainly in the latter part of it—are certain guidelines that might be used.

**Mr. Stanbury:** Could you give me a guideline on whether you interpret this resolution as suggesting that the consent of both parents should be required or only one?

**Mr. Merriam:** Again I think this becomes a question for the provincial legislature to decide. Do they want both parents or do they want the parent who in law is capable of giving consent.

**Mr. Stanbury:** You are not able to offer any advice to the provincial legislature on whether it should be one or both?

**Mr. Merriam:** No, there is no mention of that here at all.

**Mr. Stanbury:** All right, thank you.

You mention here, "such other persons as it deems advisable." Could you give us some examples of the kinds of people you had in mind so we can understand whether or not those additional people need to be consulted?

**Mr. Cooper:** Mr. Stanbury, an example which suggests itself to me in that area is that of a girl who is in a foster home, or that sort of thing. As Mr. Merriam pointed out, these are in effect suggestions for legislation and not a drafted bill. There are other examples that would suggest themselves. I have given you one.

**Mr. Stanbury:** Mr. Cooper, I think you were out of the room when Mr. Merriam was answering my question about whether or not under Section 21 the consent of the pregnant female should be sought. This section does not provide for it. Is it your opinion that in addition to asking the consent of the parent or guardian, or these other persons, that the consent of the person under 21 might be sought as well?

**Mr. Cooper:** Yes, that would be my thought.

**Mr. Stanbury:** Mr. Merriam suggested that even if the pregnant woman were under 21 she would still be the applicant. I do not think there is any mention of that in the resolution.

**Mr. Cooper:** She would be the applicant and, of course, in that case naturally she would consent to what is going to take place.

**Mr. Stanbury:** I presume that I remember enough law to know that if she were 12 years of age the true applicant would be her guardian or her parent.

**Mr. Cooper:** Yes, that is so.

**Mr. Stanbury:** Yes. And if she were 20 years of age the same thing would apply but under your suggested procedure she would not be consulted.

**Mr. Cooper:** I know of no reason why if legislation such as this were enacted, a girl of 18 could not be an applicant even if she were under the age of 21. Perhaps she cannot write a will if she is under the age of 21 or she cannot do this or that, but being a pregnant female, and if this board were set up to deal with her case, I must say I do not think there would be much difficulty in stating that even though she was under the age of 21 she can still be an applicant.

**Mr. Stanbury:** Do I understand the intent of this section to be that if the pregnant woman is under 21 her personal consent, not through a guardian or a parent, to an abortion would not be required?

**Mr. Cooper:** As Mr. Merriam has said, the consent would be implied in making the application.

**Mr. Stanbury:** But I have just suggested to you that in most cases—and I do not think you have satisfied me on where the line should be drawn—the application, because she is a minor, would be made on her behalf by a parent or guardian. It would not be her application at all.

**Mr. Cooper:** In cases where the application is made by the guardian, the girl being under the age of 21 years, the section has suggested that it does not call for her consent but in that case for the consent of the applicant, the person having legal control or responsibility for her, accepting your view that she is under 21 and therefore makes application by her parent or guardian.

**Mr. Stanbury:** It would be helpful to me to know whether it is just accidental, as in the case of some of the other provisions in the resolution, or whether it is a deliberate conscious decision by the Association that the consent of a pregnant female under 21 is not necessary.

**Mr. Cooper:** No, that was not a conscious decision by the Association.

**Mr. Stanbury:** I do not suppose it is significant to have your personal opinion on this but

as an eminent counsel do you feel that it is practical for us to legislate in such a way that a 20-year-old woman who has a vote in Quebec, and perhaps some other provinces now, cannot make the decision whether or not she is going to have an abortion and, in fact, she will not be consulted?

**Mr. Cooper:** I would say that if a girl of 20, which is the case you have referred to, applies to the board to obtain what seems to be the benefits of termination of pregnancy that although there is power in such a case for the board to require written consent from the parent or guardian, as the case may be, I can hardly conceive of their requiring written consent in that case from the parent or guardian, and I would suggest that "In such instances the board may require written consent" is there as a safeguard to see that applications are properly made with the consent of those persons who the board considers should give consent.

• (2.10 p.m.)

**Mr. Stanbury:** I point out that the first part of Section 4 indicates it is only when the woman is over 21 that her consent is required. But would you add to the second sentence the provision that her consent would be required in addition to that of the parent or guardian when she is under 21 but of sound mind?

**Mr. Cooper:** If I were drafting the section as a legislative counsel which I am not, I would spell out more clearly in the section when and under what circumstances consent is required. I think this is not intended to be a definitive and a final section dealing with the subject, and it cannot be, because the provincial legislatures are going to have something to say.

**Mr. Stanbury:** I think you might have been a little more helpful to the provincial legislatures, though. You have gone to the extent even of providing for a section with the name of the act, and it does look very much to me like a model bill, but I suggest that a provincial legislature would find itself in great difficulty if it took this as a model bill.

**Mr. Cooper:** We may agree, Mr. Stanbury; we might have been more helpful if we had spelled out the wording in greater detail.

**Mr. Stanbury:** Usually lawyers are not the ones to suggest that the wording is not too important. Thank you very much.

**Mr. Cowan:** Mr. Chairman, may I ask one question? The witness said that he thought an applicant for abortion should be limited to

about one a year. There is nothing to stop her from applying to the various ten provinces. If she is limited to one here in Ontario, she might go to Manitoba. You know the way it is for divorces.

**The Chairman:** Gentlemen, we are very late. I apologize to Mr. Cooper and Mr. Merriam and I thank them for appearing before us on this very important day for those people who are sports inclined.

**Mr. Brand:** There is a point I want to bring up, not as a question, but as a question to you, Mr. Chairman. In view of the fact that there is going to be considerable argument about substantial risk to the unborn child, would you and the Steering Committee consider whether or not it would be wise for this Committee to receive advice from experts in genetics and genetic effect of drugs and diseases called before us? Perhaps it would not

do any harm, since we tossed around the name "thalidomide", to bring one of these children or mothers here. I would like to hear their views. That would be entirely up to them, of course, but this has been tossed around and a lot of loose opinions were expressed at the last meeting as well as at this one. Frankly, I think on something as important as this, it might be wise to talk to the source.

**The Chairman:** May I suggest that we listen to the Canadian Medical Association and then decide.

**Mr. Brand:** I doubt very much that we will receive any help there either, Mr. Chairman.

**The Chairman:** The meeting is adjourned until one week from today when we will have the brief of the Humanist Fellowship of Montreal.

## APPENDICE C

### RESOLUTION

#### "RESOLVED:

That The Canadian Bar Association recommend to the Minister of Justice that the Criminal Code of Canada be amended so as to provide that an operation for the termination of pregnancy shall be lawful:

1. (a) if continuation of the pregnancy will endanger the life or health of the pregnant female or there is substantial risk that the child may be born with a grave mental or physical disability and the operation is performed by a duly qualified and licensed medical practitioner, in a hospital accredited by the Canadian Council on Accreditation, after approval by the therapeutic abortion committee of such hospital, or

(b) where there are reasonable and probable grounds to believe that a sexual offence has been committed from which pregnancy has resulted.

2. No operation for the termination of a pregnancy for the reason set out in Section 1 (b) hereof shall be performed unless an application has been made to and approved by a 'Termination Board' which means any special board duly established under any provincial statute, or by the Lieutenant-Governor in Council of a province to authorize the termination of a pregnancy.

3. All hearings of any Termination Board shall be held in camera and evidence given before any such Termination Board shall not be admissible in evidence at any other proceedings except for the purpose of proving inconsistent statements by the pregnant female.

4. A full report of all applications for the termination of a pregnancy, whether made to the therapeutic abortion committee of a hospital or to a Termination Board, and whether or not such application is approved, shall be made to the Deputy Minister of Health of the province in which such application is made within thirty days of the decision of such committee or Board and shall include, inter alia, a statement of the findings and result of such therapeutic abortion.

#### AND BE IT FURTHER RESOLVED:

That The Canadian Bar Association recommend to the appropriate authority in each province that an Act be passed by the Leg-

islature of that province to create a Termination Board in the following terms:

*Section (1):* Name of Act—Termination of Pregnancy Act.

*Section (2):* Description of 'Termination Board'—it is suggested that the Board be constituted by seven (7) members: three (3) persons qualified as medical practitioners, two (2) persons qualified as barristers and solicitors, and two (2) persons who are practising social workers having the minimum qualification of Bachelor of Social Work, all such persons to be appointed from time to time by the Lieutenant-Governor in Council who shall also name the Chairman thereof.

*Section (3):* Quorum of the Termination Board to be any five (5) of its seven (7) members and the decisions to be arrived at by majority vote.

*Section (4):* The condition of pregnancy can be terminated only with the written consent of the pregnant female unless the pregnant female is under the age of 21 years at the time of application or has been certified as mentally incompetent under the appropriate provincial legislation. In such instances the Board may require written consent from the parent or guardian as the case may be, and from such other persons as it deems advisable.

*Section (5):* A pregnancy can only be terminated by a duly qualified medical practitioner when specifically so authorized by the Termination Board in a duly licensed hospital.

*Section (6):* The Board may act on written reports or conduct such hearings as it deems advisable and may require witnesses to attend and give evidence under oath or to make representations to the Board by Affidavit. All hearings of the Board shall be held in camera and communications, evidence or reports submitted to the Board shall not be admissible in evidence at any other proceedings except for the purpose of proving an inconsistent statement by the pregnant female in such proceedings. The applicant, the alleged offender and in the discretion of the Board any other interested person may appear with counsel.

*Section (7):* The Termination Board to have exclusive jurisdiction and its decision to authorize or to withhold authorization to be final and conclusive and not open to review.

*Section (8):* The remuneration of the members of the Board to be determined by the Lieutenant-Governor in Council."

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Certified a true copy of a Resolution passed by The Canadian Bar Association at its Forty-Eighth Annual Meeting in Winnipeg, Manitoba on August 30, 1966.

(signed) RONALD C. MERRIAM,  
Secretary.



OFFICIAL REPORT OF MINUTES  
OF  
PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,  
*The Clerk of the House.*

HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1967

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STANDING COMMITTEE  
ON  
**HEALTH AND WELFARE**

*Chairman:* Mr. HARRY C. HARLEY

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MINUTES OF PROCEEDINGS AND EVIDENCE

No. 3

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THURSDAY, OCTOBER 19, 1967

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Respecting the subject-matters of  
Bill C-122, An Act to amend the Criminal Code (Abortion)  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

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WITNESS:

*Representing the Humanist Fellowship of Montreal Inc.:* Dr. Henry  
Morgentaler, M.D., of Montreal, Past President.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1967

STANDING COMMITTEE  
ON  
HEALTH AND WELFARE

*Chairman:* Mr. Harry C. Harley

*Vice-Chairman:* Mr. Gaston Isabelle

and

Mr. Ballard	Mr. Howe ( <i>Wellington-Huron</i> )	Mr. O'Keefe
Mr. Brand	Mr. Knowles	Mr. Orange
Mr. Brown	Mr. Laverdière	Mrs. Rideout
Mr. Cameron ( <i>High Park</i> )	Mr. MacDonald ( <i>Prince</i> )	Mr. Rochon
Mr. Chatterton	Mrs. MacInnis	Mr. Rock
Mr. Cowan	( <i>Vancouver-Kingsway</i> )	Mr. Rynard
Mr. Enns	Mr. Matte	Mr. Simard
Mr. Forrestall		Mr. Stanbury—(24).

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

THURSDAY, October 19 1967.

(4)

The Standing Committee on Health and Welfare met this day at 11:10 o'clock a.m., the Chairman, Mr. Harry C. Harley, presiding.

*Members present:* Mrs. MacInnis, Messrs. Brand, Brown, Cameron (*High Park*), Chatterton, Enns, Forrestall, Harley, Howe (*Wellington-Huron*), Isabelle, Knowles, O'Keefe, Matte, Orange, Rynard, Stanbury. (16).

*Other member present:* Mr. Allmand.

*Also present:* *Representing the Humanist Fellowship of Montreal Inc.:* Dr. Henry Morgentaler, M.D., of Montreal, Past President.

The Committee resumed consideration of the subject-matters of Bills C-122, C-123 and C-136.

The Chairman introduced Dr. Morgentaler who made a preliminary statement and described the aims and philosophy of the Humanist Fellowship; he stressed a few points of the brief.

*Agreed,—*That the brief be printed as an appendix to this day's proceedings. (*See Appendix "D"*).

Dr. Morgentaler was questioned.

The Chairman thanked the witness, and at 1:30 p.m. the Committee adjourned to 11:00 a.m. Tuesday, October 31, at which time the Canadian Medical Association will appear.

Gabrielle Savard,  
*Clerk of the Committee.*



## EVIDENCE

*(Recorded by Electronic Apparatus)*

**Thursday October 19, 1967.**

**The Chairman:** Ladies and gentlemen, we have a quorum.

Before starting the meeting I would like to inform members that the Committee now has in its possession one copy of the transcript of the 1966 meeting of the Canadian Bar Association. Members had expressed a desire to study it, and it is now available. It is a fairly lengthy document and is too long to be printed as an appendix. It will be available through the clerk's office if anyone wishes to see it.

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, may I first raise the point that at our last meeting I think we made some reference to the desirability of inviting a geneticist to come before us to give us some information. Is that definitely going to be done?

**The Chairman:** Yes, it will be done. I approached the Medical Association, who will appear next, and they have given me a list of between 13 and 15 geneticists. They have recommended, for convenience and because of his closeness, that we could perhaps call upon Dr. Fraser who is a geneticist at McGill University in Montreal. With the approval of the Committee, we will do so. Actually, I was going to go ahead and do it without asking for the Committee's approval.

This morning we have with us Dr. Henry Morgentaler, Past-President of The Humanist Fellowship of Montreal Inc., who is also a general practitioner in the city of Montreal.

**Dr. Henry Morgentaler (Past President, The Humanist Fellowship of Montreal Inc.):** Thank you, Mr. Chairman. Ladies and gentlemen, members of the Committee on Health and Welfare of the House of Commons, I am very proud, and wish to thank the Chairman of the Committee, at having been invited to present this brief on behalf of The Humanist Fellowship of Montreal. This brief has been endorsed by the Toronto Humanist Association and by the Victoria Humanist Fellowship. These are the major humanist groups in

Canada. At the present time we are negotiating the formation of the Canadian humanist association which would represent the views of all humanists in Canada.

I would like briefly to describe what are the aims and philosophy of the humanists groups in Canada. We represent the philosophy of life which is called naturalistic humanism. We are part of the international humanist movement which is embodied in the International Humanist and Ethical Union with headquarters in Holland.

I will outline briefly the philosophy of naturalistic humanism. Our ideals are, in a sense, the same as those of most people of most religions and philosophies but with some differences. We have respect for human dignity and for human life; our ideals are social justice and the basic democratic rights such as freedom of religion and conscience, freedom of speech and freedom of association. Our aim is for the fullest possible realization of the potentialities of the individual as an individual and as a responsible member of society.

We are naturalists, which means that we accept that scientific methods decide what is fact and what is fiction. We do not necessarily accept the Bible or the Koran or any of the Jewish holy books. We reserve the right to look at them with the eyes of a modern man who is basing himself on his present knowledge, and if there is conflict between the holy books and what we now know, as determined by science, we will obviously opt for what we know as fact. As far as values are concerned, we will decide what are the real values, those which are good for people and for mankind in general—the broad human values of mankind.

I want to stress this. We base ourselves very much on the scientific aspect, that is, on research—the basis of the fact—and, therefore, we examine different institutions and different concepts in the new light of the knowledge we have now. It is obvious that many of our institutions and many of our laws are based to a great extent on holy

books which have come down to us from 2,000 years ago. Many of the concepts embodied in these books are now obsolete. There have been new medical discoveries; there is new knowledge; we have to adjust our laws and our institutions to the knowledge that we have at hand.

I want to mention briefly a few points in our brief. I think you will agree with me that this is probably one of the more revolutionary and far-reaching of all the briefs submitted to you. This is no accident, because, as I said previously, we are not bound dogmatically to any holy text. We wish to examine all texts and all laws with reference to how they affect people living now.

It is obvious to everybody that the statistics on illegal abortion are staggering. Looking at it as a world-wide epidemic it is estimated that about 100,000 women die every year as a result of illegal abortion. The figures for Canada and the United States are spelled out in the brief. We have, in fact, a situation where the law, as it now stands, compels the unwilling to bear the unwanted. We have death and tragedy, sterility, injury and psychological trauma, to which many women in Canada are subjected as a result of these outdated laws. The majority of people agree that changes should be made.

Our basic proposals are summarized, and I will just review them. We feel that any woman should have the right to have termination of pregnancy on request up to three months of pregnancy. As I said, this may sound revolutionary, but in reality it is not, because I think we should view the problem of abortion and of unwanted pregnancy as an accident. An unwanted pregnancy is an accident. It is an accident of sexual activity which is not necessarily designed to procreate. I believe most people will agree that sexual activity is a normal thing, and if pregnancy results from it, it is, in a sense, an accident. There is nothing more beautiful than a married woman looking forward to having a normal, nice baby; there is nothing more joyous. But there is also nothing more terrible than a woman who has already had several children and who is possibly over 40, or who is unmarried or under sixteen and who is faced with the prospect of having an unwanted child which she may eventually have to put up for adoption or which she may have to keep, with the disapproval of society and under terrible conditions. I think it is important that we view this matter as an

accident of sexual activity that can happen to any woman. We now have very good birth control methods; we have the coil, we have the pill and many other things that most Canadian women use, but it is still possible to have a failure of these methods.

What should a woman do who has an accidental pregnancy, a pregnancy she does not want? Shall we deny such a woman the right to have this unwanted pregnancy terminated by readily available medical means? This is what presently happens and all the bills of law that have been presented so far have dealt only with marginal cases, on which I think there is a great consensus currently existing. In cases of rape or incest I think the consensus is that no woman should be obliged or forced to bear a child which has resulted from incest or rape.

There is also a growing consensus that no pregnancy should be allowed to continue if the woman, for instance, has had german measles in the first three months of pregnancy. It is known that the virus of german measles will affect the growing foetus or embryo and produce tremendous abnormalities in a very high percentage of cases and the woman may then be faced with the prospect that the expected baby will be either deaf or blind or have a defect in the heart and will be crippled for life.

I think it is much more reasonable to expect that a woman, who in her lifetime is willing to have two or three children and in the event that she has contracted german measles in the first three months of pregnancy, should be given the chance to have a legal termination of that pregnancy and then later on she can continue with another pregnancy where she has a very good chance of producing a normal baby.

I think there are other indications that a great consensus is already forming and, according to the Gallup Poll, the Canadian public favours the liberalization of the laws. I believe the Canadian Medical Association is also in favour of this. However, all these cases only relate to about 10 per cent of the female population of Canada or of the world. Most of the cases of unwanted pregnancy occur with married women who already have children. Some of them are at an age where they are unable psychologically to face another pregnancy and where, as I said, pregnancy has resulted because of an accident of sexual activity. In this case it should be considered that this pregnancy is an acci-

dent of sexual activity and one which is unwanted, and in our opinion the woman should have the right to her body, she should have the right to decide whether this pregnancy should continue or whether she should be permitted to go to a medical doctor and ask him to terminate that pregnancy. We think this is a fundamental right of any woman anywhere in the world.

The major objection to this proposal—which is based, of course, on religious grounds—is that this is murder. This is an opinion which is held principally by the Catholic Church. I hope this opinion will change. There are many other opinions that the Catholic Church is presently in the process of modifying, such as their opinion on birth control, marriage and divorce. As it now stands a charge or accusation is hurled at anybody who advocates the termination of pregnancy at any stage.

I think it is important to point out that the Catholic Church has not had a consistent opinion on this. There has always been the question of when the soul enters the body. At one time it was thought that it entered the male foetus after 40 days from the moment of conception and the female foetus after 80 days of pregnancy, but the present church doctrine is that the soul enters the forming foetus at the moment of conception. It is at the moment when the sperm cell and the ovum unite to initiate the series of changes which will eventually produce a baby that the soul enters the body, and consequently to tamper with that kind of soul or with a foetus is murder.

I would now like to deal with this particular objection because I think it is a major one. First of all, it is a question of semantics when people say you "take a life". Life is not a noun; it is a process, a process of living, and when you speak of murder you are speaking of willfully terminating the life of an individual human being. Now, concerning the question of a foetus or an embryo, we are not in the presence of an individual human being, we are in the presence of a potential human being. As some of you may know, one out of eight pregnancies normally terminates accidentally by what we call miscarriage. I do not mean induced miscarriage but in a sense this is Nature's way of getting rid of foetuses which are not well formed, and one out of eight pregnancies will terminate this way. When we say that up to three months a woman should have the right to

terminate a pregnancy, we see this, in a sense, as a period of grace for any woman, who has been caught, so to speak, with an unwanted pregnancy, to have that pregnancy terminated.

Another major reason why she might want to have that done is not only does she consider that an accident may have happened and she did not want the baby, let us say she was engaging in normal sex in marriage and it happened, but also that an accident might occur to the forming foetus within the first three months of pregnancy which might result in an abnormal foetus being formed, such as occurs in cases of German measles, which I mentioned, and in cases of drug intake or syphilis or other factors as well. We believe that a foetus is not an individual human being; it is a forming individual human being.

I wish to stress the fact that most of our knowledge about embryology and the development of a human being during the nine months of pregnancy has been gained in the last 150 years, whereas most of our ideas about abortion and life in general have come down to us from about 2,000 years before that, so it is obvious that we have to apply the knowledge that is now at hand to these problems.

Another point I wish to stress is what we propose is permissive legislation. No woman, of course, would be forced to undergo an abortion, even a woman who, for religious or other reasons, believes that once she has been impregnated and is pregnant that she should go on and have this child whether she likes it or not. We believe that it should be the prospective mother's decision that should prevail. We believe that the state should not legislate in this matter with respect to any particular person. If a woman decides she wants to go on with a pregnancy it is obviously her inalienable right to do so and we do not propose to change this in any way. We propose that those women who feel for any reason that they cannot face another pregnancy, that in a sense it will cost them tremendous heartache, that they are not psychologically fit to undertake the responsibility of caring for a child for another 15 years, that those women should not now be forced by law to seek out illegal abortionists and to subject themselves to the danger and risk of injury and death, but rather that they should be allowed to have a legal, medical, therapeutic abortion under sanitary conditions and

with a minimum risk, which would be very low. We believe that this will diminish to a great extent—which has been the experience in many countries—the injuries, the psychological trauma and the terrible tragedies that occur at the present time.

This concludes my remarks on our brief. I will be very glad to share my knowledge and my opinions with the members of the Committee and I am quite ready to answer any questions.

**The Chairman:** Thank you very much, Dr. Morgentaler. First of all, is it agreed that we print today's brief as an appendix to the Minutes of our Proceedings?

**Some hon. Members:** Agreed.

**The Chairman:** The meeting is open for questioning. Mr. O'Keefe.

**Mr. O'Keefe:** Mr. Chairman and Dr. Morgentaler—

**The Chairman:** Before you start, Mr. O'Keefe, because of the trouble we had last week with the length of time the meeting took, I am going to limit everyone to five minutes on their initial round of questioning. Mr. O'Keefe, will you continue.

**Mr. O'Keefe:** Mr. Chairman and Dr. Morgentaler, is your organization a religious one?

**Dr. Morgentaler:** That depends on the semantics of the word "religion". If religion means a philosophy of life or if it means a commission to certain universal values, then we are a religion. If it only means a way of life, a certain attitude, if your question about religion means a...

**Mr. O'Keefe:** Surely we know what a religion is.

**Dr. Morgentaler:** Then we are not a religion. I mean many humanists...

**Mr. O'Keefe:** Please answer the question. You are a religion or you are not.

**Mr. Knowles:** We should let the witness answer in his own words.

**The Chairman:** I am sorry, Mr. O'Keefe.

**Dr. Morgentaler:** As everybody knows, the word "religion" has come to mean many things. It means different things in western countries than in eastern countries. In western countries it means mainly a belief in God, in the supernatural and everything is

related to this in their holy books. There are some eastern religions like Taoism and Confucianism and the initial Buddhism which are called religions which do not have a belief in the supernatural.

As I said before, humanists are naturalists. That is, we believe in the facts given to us by science. We believe that man is a product of evolution. We do not believe in any supernatural explanation of events.

**Mr. O'Keefe:** In the understanding that we have of religion, which is based on a belief in Almighty God, then yours is not a religion?

**Dr. Morgentaler:** In that sense we are not a religion.

**Mr. O'Keefe:** Are you a charitable organization?

**Dr. Morgentaler:** We are an educational organization.

**Mr. O'Keefe:** I have a pamphlet here, Mr. Chairman, and Dr. Morgentaler is head of The Humanist Fellowship of Montreal. Some of the patrons are G. Brock Chisholm, Corliss Lamont and Bertrand Russell. On another page there is an application for membership, which reads:

I am interested in  
Personal Membership (\$10)  
Family membership (\$15)  
Student membership (\$3)  
My membership fees enclosed.  
Please bill me.  
All contributions or donations are  
income tax deductible.

**Dr. Morgentaler,** what is your registration number for income tax purposes?

**Dr. Morgentaler:** I would not know that offhand. There was correspondence with the Minister of National Revenue on this matter and our tax deductible status was revoked because they did not consider us to be a religious organization. At the present time our donations or contributions are not income tax deductible.

**Mr. O'Keefe:** But you have them advertised as such.

**Dr. Morgentaler:** That was literature printed before we had the correspondence with the Minister of National Revenue.

**Mr. O'Keefe:** Thank you, sir. So, there is no number. Do you believe that the end justifies the means?

**Mr. Morgentaler:** I definitely do not. I believe it is a perversion to think that the end justifies the means. The means are just as important as the ends. In any question I think that people who employ means which are dishonourable, bad and unjust in order to achieve an honourable end are deluding themselves.

**Mr. O'Keefe:** What do you really intend to do with your resolution, doctor? What do you think it hopes to do? Remember, you cannot judge a law on what you hope it will do; you must judge a law or any legislation on what practical men believe may be done or what the experience of other countries has been. Considering the experience of other countries, do you think your bill or the suggestions you propose will reduce illegal abortions in Canada?

**Dr. Morgentaler:** Yes, definitely so. The exact purpose of our bill is to reduce the tremendous toll in suffering that is going on now, the deaths that you have in Canada, the injuries to women who undergo illegal abortions, the psychological trauma. There is a certain aura of criminality surrounding abortion which is entirely due to the fact that most abortions are done illegally, they are done in backroom alleys, they are done under unhygienic conditions and they are done by people who do not know how to do them.

**Mr. O'Keefe:** How do you know that?

**Dr. Morgentaler:** Oh, everybody knows that.

**Mr. O'Keefe:** It is not common knowledge.

**Dr. Morgentaler:** There have been articles written in major magazines and there have been books written on this subject and as a general practitioner I have had personal experience in medical practice where women have had to go to backroom abortionists to get an illegal abortion. We know the degradation that is involved in that.

**Mr. O'Keefe:** So you are now suggesting there are no legal abortions, no abortions done by reputable medical men?

**Dr. Morgentaler:** No, I am not suggesting that. I think that as the law stands, at the present time the only grounds for a legal abortion is if the life of the mother is in danger.

**Mr. O'Keefe:** That is not the question I asked.

**Dr. Morgentaler:** I am trying to answer your question to the best of my ability. You asked me if legal abortions are done in Canada and I say they are, but only on the grounds when the mother's life is in danger. This accounts for only a very small number of abortions. I think the number of legal abortions in the United States per year is about 10,000 and if you apply the same proportion there would probably not be more than 1,000 abortions performed in Canada. The number of illegal abortions in the United States is estimated at one to two million per year and probably if you reduced it by one tenth you would have the number that occur in Canada. Because of medical advances the life of the mother is now very seldom in danger. Even in cases of advanced diabetes or heart disease it is possible to carry a mother through a pregnancy. This is the only ground on which an abortion is performed and obviously it leaves the majority of women, about 99 per cent of them, without any recourse to therapeutic abortion and it is also why those who are determined to do so will go and seek out an illegal abortionist, with all the risks that this entails.

**The Chairman:** Just one last question, Mr. O'Keefe.

**Mr. O'Keefe:** I am not sure if you know Professor Ian MacDonald, who is a practising gynaecologist at the University of Glasgow, but he has heard the beat of a baby's heart at the age of 14 weeks—not only has he heard it, he has recorded it. I suggest to you, Dr. Morgentaler, that that is a human being; it is not a glob of jelly that you can scoop into a bucket. It is a boy or a girl, a genius or a dolt, a musical or a mathematical. It is a baby; it is a human being. Can you in conscious agree to the destruction of that human being?

**Dr. Morgentaler:** This is exactly the purpose of our brief, to point out our different opinions. A baby is a baby and this is why we put a time limit of five to six months, which is when we think a baby is a baby and it should have the full rights of any person.

**Mr. O'Keefe:** You do not think a baby is a baby when the heart is beating?

**Dr. Morgentaler:** No, I do not.

**Mr. O'Keefe:** Just hold on! I have one further question. Do you not think Dr. Morgentaler, that you should ask yourself and your organization who gave you the right to take such a stand? Who gave you the right to try to influence people to allow the killing of unborn babies? When I quoted Professor MacDonald I did not quote a Roman Catholic. He cannot be accused, as I have, of being a bullying, bigoted Catholic because he is not a Catholic.

**Dr. Morgentaler:** I think the question is unfair. I am a human being, a member of this community and a member of mankind. As a humanist I am concerned with all people without regard to race, creed or colour, and as a humanist I think we have a right and a duty to influence public opinion to bring about laws that will be just and that women will not be compelled to suffer needlessly. As to the question whether it is a human being or not, this is of course a question of philosophy and we may disagree on this. Obviously we do disagree. We believe that a forming embryo or fetus is not yet a baby and any woman—if you will permit me to finish—wishing to have a legal abortion during the first month of pregnancy does not want to kill the baby—and it is terrible to accuse a woman of being a murderess in that way—what she wants is to terminate the pregnancy when it is not yet a baby. This is exactly why we say that at the time a baby is already a baby and could live outside the womb of the mother we think there should be no more legal abortions. I think, if I may make a comparison, you can have a blueprint for a house, but it is not yet a house; it is a blueprint. You could eventually get other blueprints. It is not for you as legislators to decide that a woman who is accidentally pregnant is obliged or forced to continue this pregnancy which she considers an accident.

**Mr. O'Keefe:** What makes you so sure your pregnancy was accidental? Or mine—in the pregnancy which resulted in the birth of anyone... or outside?

**Dr. Morgentaler:** This is exactly why we want to leave it to the judgment of the woman. We believe that any woman should have the right to counsel—psychological, medical and spiritual, according to her religious belief—but that in the final analysis it should be left to the decision of the woman who is having the pregnancy she does not want.

**Mr. O'Keefe:** Very often under great pressure by the father.

**The Chairman:** Order.

**Dr. Morgentaler:** We do not want to force any woman to go against her religious or philosophical ideas. What you seem to imply is that you want to force a woman to conform to a particular government or church to which she does not even belong.

**Mr. O'Keefe:** I want an illustration from someone. . . .

**The Chairman:** Mr. O'Keefe, you are out of order.

The Committee Chairman gave Dr. Morgentaler the right to come before this Committee and we have to treat him as such. You asked him what gave him the right. I, as Chairman, on behalf of the whole Committee, invited him to come and express his opinion.

We will now pass on to Mr. Enns.

**Mr. Enns:** Reverting to your organization, Dr. Morgentaler, you mentioned having headquarters in Holland; is that correct?

**Dr. Morgentaler:** Yes.

**Mr. Enns:** Is this a wide-ranging, international group?

**Dr. Morgentaler:** Yes, it is a wide-ranging international group, with national organizations in most of Europe, the United States, Canada and Asia.

**Mr. Enns:** Do you have any members in Japan?

**Dr. Morgentaler:** Yes, there is a Humanist group in Japan as well.

It has no power. It is a group that was formed in 1952 as an expression of theological life different from that of the Communist power block, which is considered a totalitarian, dogmatic philosophy, or even irreligious, and apart from the Catholic church which is also considered a dogmatic, totalitarian organization, which at the present time is changing to a certain extent.

Therefore you have, in a sense, people who are more liberal-minded, who are willing to look at events and to develop their philosophy of life, and to invent an institution, as I said before, basing itself on the data of science and on the eternal values of mankind, such as human dignity and the realization of their potentialities by all people in the world.

**Mr. Enns:** Membership is quite elective, of course. Are there members of The Humanist Fellowship who are adhering to the organized church?

**Dr. Morgentaler:** There would be very few, I imagine. Some people have described us as the left wing of the Unitarian Church, but I do not agree that this is the proper term. I think you will find that humanism has a philosophy and is a trend which is present now almost all over the world. I could say that there is a Humanist trend within the Catholic church, in the sense that the Catholic church is now much more concerned with the problems of the here and now, with relationships between people and with the problems that affect people. They are making adjustments. There is a trend towards Humanism within the Communist world. They are taking away some of the dogmatism and rigidity although they still have far to go. You will probably find most Humanists in the western, democratic, liberal world, where people have freedom of speech and religion, because one of our fundamental principles is the freedom of a person to practise his religion and to have a philosophy of life without coercion. Obviously, conditions for this kind of philosophy are best in those parts of the world where there is no coercion by the state or by any authoritarian groups to impose one particular dogma or philosophy on all people.

**Mr. Enns:** In your brief and in your remarks you speak of the German measles as being very often a reason for malformation. Is there a fairly good consensus among medical view on this question?

**Dr. Morgentaler:** Oh, yes. It has been well-established, if I am not mistaken, for about the last fifteen years, that the virus of German measles will affect the forming embryo or fetus in a woman who has contracted the disease within the first three months of pregnancy. The probability of her having an abnormal child is about fifty or sixty per cent. This means that a woman who has the misfortune of getting German measles within the first three months of pregnancy is faced with a real prospect of the child's being born with a defect in the heart, in the brain, or in the eyes, or of its being deaf. It is quite a dilemma.

**Mr. O'Keefe:** On a point of order—although I do not know if my point of order is proper—my statistics show twenty per cent.

**The Chairman:** This is a medical point. We can clear it up with the medical practitioners.

**Mr. Enns:** I just want to say to the witness, Dr. Morgentaler, that I am very impressed with the weight of his argument. As a social worker and having had responsibility for a child-caring agency, I have had to deal with people facing this dilemma of abortions and unwanted children. The weight of argument in your brief, sir, I believe, stresses the individual right.

**Dr. Morgentaler:** Yes.

**Mr. Enns:** This appeals to me as the strongest and most cogent argument you have put forward.

You speak on page 11 of a board or panel in a medical hospital to deal with this question after the three-month period. I believe that is how you put it. How would you envision the make-up of that board? Would it be composed purely of medical men or would it involve psychologists or other staff? What disciplines would you want on that board?

**Dr. Morgentaler:** This is an important point. I think our brief is consistent in that, as I have said, we feel that a woman should, up to three months, or for a period of grace, have the right to decide whether she wants this pregnancy.

**Mr. Enns:** Without any appeal to the courts?

**Dr. Morgentaler:** Without any court. I consider it unjust to make a woman appear before a panel, usually of three, five, or seven men, to have this question decided. I think it is the woman's right to decide for herself. After all the counselling she can get, as I said—spiritual, medical, psychological and so on—it is she who should make the decision on whether she is willing or ready to assume the responsibility of caring for a child for fifteen or twenty years.

We have put it at three months because after that it becomes more difficult to have an abortion; it involves a more serious medical procedure.

The board could be composed of doctors, with psychologists, or people like that. We can be quite flexible there.

**Mrs. MacInnis (Vancouver-Kingsway):** I have several questions. My first concerns the matter of individual right. It has been put to me that it is an immoral thing for a child to be brought into the world unless it is wanted. What would be your reaction to that?

**Dr. Morgentaler:** I agree that it is indeed immoral because we know now from the data of psychology and social science that children who are brought into the world and who remain in institutions, hospitals and creches and so on—who do not have a mother figure, at least, or a home in which they are taken care of—usually grow up suffering from tremendous psychological damage. Many criminals and anti-social characters, people who eventually become neurotic or psychotic, become so because of tremendous psychological deprivations in the first three years of life.

Therefore, in a sense, I think it is immoral to bring into the world a baby which will face such terrible conditions. A very small percentage of illegitimate babies are adopted. Here again we have a situation where, because of religious laws, children cannot be adopted into a good home because the parents are not of the same religious persuasion. We have tremendous injustice and really tremendous social problems, well-documented, especially in the United States, where thousands of illegitimate children remain wards of the state on welfare rolls, are practically brought up on the street, and do not become responsible members of society.

If, as we all are, intent on avoiding crime and mental illness, it is obvious that we should at least see to it that, as far as possible, children who are born should be wanted. Our brief proposes just that. As I said, we would not force any woman to continue with a pregnancy if she does not want to, and to those women who know within themselves that, for many reasons, they cannot continue with a pregnancy, we say that the state should allow the medical profession to offer you the help which you seek. We do not force you to do this, but we will allow you to. We think it is unjust that society should prevent medical help, which is readily available, being given to these women.

**Mrs. MacInnis (Vancouver-Kingsway):** Thank you. Dr. Donald Lowe, who is the former Chairman of the Therapeutic Abortion Committee of the Ontario Medical Association, made the statement that in a recent year in Ontario half the admissions to gynaecological wards were as the result of bungled illegal abortions. What has been your experience throughout Canada as a whole or in any part of it?

**Dr. Morgentaler:** I know from experience there are many cases which come to hospital

which are the result of bungled abortions, cases of women who are almost bleeding to death or who have infections. Some of these women cannot now be saved because they were afraid to seek medical help for fear of being prosecuted because they had done something illegal or something which is considered to be a crime by the country and by the law. It is obvious that all hospitals receive such cases although I do not know the statistics.

We know that in countries where the laws are such that it is almost impossible to get a therapeutic abortion—such as in Chile, where statistics are available—about 50 per cent of the beds in the maternity wards of hospitals, the women's wards, are occupied by women who have done these abortions themselves with coat hangers, lye, turpentine and all kinds of agents and they have injured themselves. Many of them die and many of them are injured. It is, as I have said, a worldwide problem and I hope that Canada will be one of the countries which will introduce more progressive laws in order to eliminate this hazard and danger to life because of illegal abortions.

**Mrs. MacInnis (Vancouver-Kingsway):** I have just one more question. What countries throughout the world now come the closest to having legislation along the lines that you would like to see?

**Dr. Morgentaler:** There has been a very interesting development in the last few years. There have been a few countries behind the Iron Curtain which have liberalized the laws to the extent that we advocate. Japan introduced legal abortion on request as a means of dealing with the tremendous population explosion that they had. Japan, of course, has a different culture from most Western countries; they have not had the widespread use of contraceptives that is current in the Western countries and the women were instead resorting to abortion, which is not the best way of terminating pregnancy or avoiding it. I think the best way is obviously for most women, if they want to regulate birth, to have the medically accepted birth control devices. As well as Japan, the countries of Czechoslovakia, Poland, Hungary, Rumania and the Soviet Union have liberalized their abortion laws.

Those of you who might think in terms of East-West or communist-capitalist ideologies, I do not think this applies at all because the communist countries have had the most

repressive sexual laws for many years and this still applies to them as far as homosexuality or other sexual offences are concerned. It has not been an across-the-board situation in all communist countries. The experience of these countries is very interesting because in most of these countries the number of legal abortions has increased very much but the number of births has not decreased, which in a sense shows that those abortions which have now become legal were previously being done illegally. One of the reasons these countries have introduced legal abortion is because they previously had a tremendous tool of injury and death as a result of illegal abortion.

A very interesting example is the case of Rumania, which also liberalized their laws and recently they have tightened them to such an extent that up to about a few months ago, I believe, any woman could have legal abortion on request at a very minimal fee. However, Rumania now needs manpower and they have now declared that any woman can have an abortion if she already has had four children, but no others. There is another very good illustration of how a communist state will regulate these matters in order to suit the state and not the individual. So you see you have a balance of progressive legislation on the one hand, which can be taken away when, in the interest of the state, it is decreed that the country needs more population.

**Mr. Knowles:** What about Sweden?

**Dr. Morgentaler:** For a long time Sweden has had one of the most progressive legislations in the Western world. It is a legislation which requires a woman to come before a board to decide whether the pregnancy should be terminated or not. This again creates many problems because, as I said it is very easy to do a termination of pregnancy by dilation and curettage in the first two months of pregnancy but because of the delays of the Board some pregnancies went on for three or four months and, as I said before, it is much more difficult to do them then and therefore there is now a movement to liberalize the abortion laws in Sweden. Many Swedish women go across the border to Poland, where they can obtain abortions quite easily on request, and the geographical distance is not far. I think, the laws at present in Poland, Czechoslovakia and Hungary are the most progressive of all.

**Mrs. MacInnis (Vancouver-Kingsway):** Has Sweden been able to cut down the rate of illegal abortions or is the rate as high as it was before it introduced this legislation? Do you know anything about that?

**Dr. Morgentaler:** I do not have the figures but it is obvious, because of the requirements of the board, that many Swedish women have had to resort to illegal abortions as well. As I said before, since the laws have been liberalized in Poland many Swedish women have gone there in order to have what under their own law is an illegal abortion.

**Mr. Brand:** I would like to congratulate Dr. Morgentaler on his grasp of the subject and perhaps welcome him to the abortion division of the Health and Welfare "bearpit".

You mentioned, doctor, German measles. It is true, of course, is it not, that there are preventive measures which can be taken by those people who are exposed to German measles?

**Dr. Morgentaler:** Yes, this is true. The medical profession has now agreed that most girls should be exposed to German measles before the age of puberty because it is a very mild disease, it lasts about three days and there is only a minimal fever. Once a girl is exposed to German measles she develops an immunity which makes it very unlikely that she will eventually have it later on when she is pregnant.

Of course, there are many other preventative measures and I think we all agree that preventative measures are much more preferable than the idea of having to undergo an illegal abortion. If we had sex education, if we had widespread knowledge on the part of women and men what it means to have to undergo eventually an illegal abortion I think the incidence of unwanted pregnancy would obviously decrease very much and we would not have to deal in or offer the kind of measures that we are now proposing. It is much better, of course, to prevent than to cure.

**Mr. Brand:** Yes. So you would agree that perhaps we should be spending more of our time developing this type of preventive rather than just improving the ease of obtaining abortions?

**Dr. Morgentaler:** Yes, but one does not exclude the other. As I said, we are dealing here with the situation where a woman, in

spite of the best available medical means of contraception, is caught with an unwanted pregnancy. I think the state should not oppose her in her attempts to get medical help to correct this kind of accident.

**Mr. Brand:** As an experienced practitioner I am sure you have seen women who did not want a pregnancy but when they carried it through they were quite happy with the resultant baby?

**Dr. Morgentaler:** Oh yes, that happens, obviously.

**Mr. Brand:** This happens as well, so there is a possibility that it is not an absolute thing, this business of saying, "we do not want this pregnancy" and therefore they should have an abortion.

**Dr. Morgentaler:** No, no. We are very far from trying to impose on any woman a certain kind of action. We want the woman to arrive at a responsible decision and we feel that it is for her to decide, after she has been counselled by her religious adviser, by her doctor, by psychologist, or by whomever she consults. I would even go so far as to suggest that this kind of counselling should be provided by the state perhaps as part of Medicare. We still believe that it is the woman who should make the decision on whether she wants to take on the responsibility of another child for about 15 or 20 years, or would be happier to have this accidental pregnancy terminated before this thing inside her womb becomes a baby.

**Mr. Brand:** Should the husband have any say in this at all?

**Dr. Morgentaler:** Yes, of course. In any good marriage these decisions are arrived at by consultation between husband and wife. I do not want to go into cases where there may be conflict between the spouses, but I still believe that in such a case it should be the woman who decides.

**Mr. Brand:** You would agree that there are other virus diseases that cause damage to the foetus? How would you handle mumps or infectious hepatitis, or things of this nature?

**Dr. Morgentaler:** Our proposal is that we rely on medical knowledge as much as possible and that the decision should be made by the woman, having had access to medical knowledge.

One must, of course, take into account all cases, and I think it is important that mem-

bers of the Committee should know that it will soon be possible—perhaps it is even now—by taking just a small sample of the amniotic fluid which surrounds the foetus inside the womb, to determine, at about three or four months of pregnancy, on even before, whether the child will eventually be born, normal or defective. Therefore, medical view will soon be able to help in arriving at a clear decision even in cases of German measles.

**Mr. Brand:** Just a moment, Doctor. Are you trying to suggest to me that they are going to be very definitive about this?

**Dr. Morgentaler:** Yes. There is an article on this. Research now in progress suggests from a sample of the amniotic fluid and the cells which are present there, it might eventually be possible for them to determine this.

**Mr. Brand:** Eventually, yes.

**Dr. Morgentaler:** It is not yet completely...

**Mr. Brand:** Not as yet, though; I want to establish this. I do not want the Committee to be given the wrong impression, and I am sure neither do you.

**Dr. Morgentaler:** No. I do not want that. What I said was that adoption of our proposals would take care of that contingency as well, because we want a woman to make a responsible decision; we want her to have medical counselling; we want her to know whether the foetus she has will have a chance of being born normal baby or abnormal baby. Obviously, it will make much easier the decision of a woman who has a doubt in her mind as the result of having German measles early in her pregnancy. It is very important for her to know whether the foetus has been damaged by the virus or will become a normal baby. In one case she will want to continue with the pregnancy and in the other she will want to ask for help to get rid of it.

**Mr. Brand:** What do you think such groups as the Canadian Association for Retarded Children or the Canadian Council for Crippled Children will feel about this?

**Dr. Morgentaler:** I have no idea. We are all members of a society which would prefer to have as few retarded or crippled children as possible.

**Mr. Brand:** Would you agree, Doctor, that perhaps these and similar organizations pro-

vide eloquent testimony to the fact that many of these children can become productive members of society?

**Dr. Morgentaler:** I do not doubt that. Most humanists would agree that any baby, whether crippled or not, should have all the rights that any human person should have.

Again I want to stress this point because we are often faced with this ludicrous sort of accusation of murder, and what not. We want termination of pregnancy before a foetus becomes a baby, not after.

**Mr. Brand:** Before you have this problem to face.

**Dr. Morgentaler:** Yes, exactly. Once it is a baby it should have all the rights of any human person.

**Mr. Brand:** You use the word "accident" a lot. I take it you do not believe in the slogan: "Accidents do not happen; they are caused"—and I do not expect a reply.

**Dr. Morgentaler:** Obviously, some people are accident prone, but I do not believe that they should necessarily be punished. They are accident prone, but they injure only themselves. Take skiing, for instance, which is a very pleasurable activity. I do not think any medical doctor will refuse to help someone who breaks an ankle skiing on the grounds that he had pleasure while skiing. I think the same thing should apply—

**Mr. Brand:** I think, Doctor, that that comment is probably about as relevant as mine.

I have one final question: what would you envisage would be the result of opening the abortion laws as wide as you are suggesting, in view of the fact that in Japan, as you have mentioned, there is now about one abortion for every live birth? There are about a million abortions a year in Japan. What will happen in Canada if we adopt this type of legislation? Will we get the same result?

**Dr. Morgentaler:** I do not foresee that situation in Canada because most Canadian women at the present time—and I would include most Catholic women, in spite of what the church tells them—employ birth control methods. In my own practice I have many French Canadian and Catholic women who completely disregard the teachings of the church on birth control. They take pills; they let themselves be fitted for intra-uterine coils. They believe, as you and I have seen stated

in the press, and as many laymen's organizations have asked, that these laws should be changed; that it should become a decision of responsible parenthood.

With the widespread use of contraceptives you will not have a tremendous number of abortions. There is a medical law which states that in any urban centre the number of abortions per year is constant, which means that if you have very few therapeutic abortions you will have so many more illegal abortions; therefore, it will probably remain constant as well. The only achievement will be that illegal, criminal abortions that result in so many injuries and death will be removed. That is all.

**Mr. Brand:** Do you think that by throwing the abortion laws wide open you will get rid of illegal abortions?

**Dr. Morgentaler:** Definitely; obviously. No woman will want to go to an unqualified practitioner and subject herself to injury or death when she will be able to go to a hospital, to a well-qualified medical practitioner who will do a very small, safe procedure with acceptable medical guarantees. This is obvious. The illegal abortionist will be completely put out of business.

**Mr. Brand:** Do you think it is better to increase the number of abortions than to direct our efforts to improving the care of children and to improving the adoption laws in the provinces to make it easier to adopt?

**Dr. Morgentaler:** I do not think it is an either-or proposition. One does not exclude the other. Both these objectives should be continued. It is very important to take great care of all children. It is one of the most important things in life. I think, on the other hand, it will enhance society. It will be much better to have fewer illegitimate children for whom to find adoptive homes. We will still have a certain number of women, of course, who, in spite of the permissive laws will, for religious or other reasons, want to continue a pregnancy even although they know that they will give up the baby for adoption. I think this is quite normal and accepted.

**Mr. Stanbury:** Dr. Morgentaler, you have said that your suggestions go far beyond anything that has been proposed in the bills that are being studied by the Committee, but you have presented an excellent brief, one which outlines very clearly and logically your point of view, which the Committee should certainly consider, particularly the

stress which you put on the individual's right. I know that you indicated this was an attempt to suit not the state but the individual. You went on to say, though, that we should have as few retarded or crippled children as possible. That was, perhaps, an unhappy way of saying that we should have as many healthy children as possible. Would you prefer to put it that way?

**Dr. Morgentaler:** Yes, definitely. I always believe in stressing the positive rather than the negative but sometimes you cannot avoid doing one or the other, as the case may be.

**Mr. Stanbury:** You are not suggesting that we would be better off without some of the retarded or crippled children that we now have?

**Dr. Morgentaler:** As I said before, I am not suggesting—this is a tricky question—that we do away with any human being.

**Mr. Stanbury:** That is what I understood and I thought perhaps the way you put that answer that it was not quite as positive as the rest of your presentation.

**Dr. Morgentaler:** If I may stress this again, we want to guarantee that these children will be wanted children and that no child will be born as a result of an accident and where the mother does not want the pregnancy to continue. We decided on this cut-off date, which is also in a sense an innovation because the timing is of extreme importance and because it takes nine months of well-timed and ordered transformation from the moment of conception to the moment of delivery and an accident might happen at any time within these nine months. What we said was at the time when a baby may live outside the womb of the mother, that is at six months—and with medical knowledge it might be reduced to  $5\frac{1}{2}$  or 5 months because, after all, medical knowledge is advancing—we feel that no abortion should be granted. I think this is a very important point because at that time we consider it is a baby and it should have all the rights that any human being should have. We are against abrogating the rights of any individual human being and we consider that the foetus, the embryo, up to three months at least, should be considered as part of the body of the woman. It is not endowed with independent life, it is not an individual human being; it is a potential human being. If eventually everything goes right it could become one. I would like to make this very

clear and I thank you for asking this question.

**Mr. Stanbury:** I am not a Catholic but I respect the views of Catholics . . .

**Dr. Morgentaler:** So do I.

**Mr. Stanbury:** . . . as I am sure you do. I am questioning in an attempt to find out what the best procedure for this Committee to follow would be. Is there any reason, other than the consideration of safety or health, for your cut-off period of three months? I wonder if you are attempting to make any gesture of conciliation toward a religious concern, because I think perhaps that suggestion might coincide somewhat with certain Catholic teachings, as I understand them. For instance, Thomas Aquinas did not suggest that life began at conception but at a later period, when the foetus took on a somewhat human appearance. Are you attempting to try to meet a religious argument or is it purely a matter of health consideration that brings you to the three month cut-off date?

**Dr. Morgentaler:** I think to a certain extent we try to meet any objections that are valid and, as I said, we are not being dogmatic in any of these. We have tried to present this brief as a sort of flexible presentation.

**Mr. Stanbury:** But there is a medical connotation?

**Dr. Morgentaler:** Yes. There is a medical contingency in that the usual operation, which is called dilatation and curettage and which is a very simple procedure, is valid only until about three months and after this you have to do a hysterotomy, which means you open the uterus and take out the product of conception. It was for medical reasons mainly that we introduced this because at this time it is becoming more difficult and if our proposals are accepted there will be a period of grace in which a woman may decide to have a legal abortion on request, and between three and five months a medical board should have a right to look into this matter.

**Mr. Stanbury:** May I ask what criteria you would suggest that a medical board—and I presume you are thinking of what is now commonly known in hospitals as an abortion committee—would use in passing on these cases between three and five months?

**Dr. Morgentaler:** I would propose the usual criteria. For instance, is there a chance that

the embryo will turn out to be a damaged baby as a result of disease or drug intake? Is there a high probability that this will be a damaged or crippled baby? Also, would the mother suffer a tremendous handicap all her life as a result of carrying this pregnancy to term? There is also the usual criteria that has been proposed by the other associations.

**Mr. Stanbury:** Is there further significance to your use of the term "usual criteria" in that these are actually the criteria which are now commonly applied by aborting committees regardless of law?

**Dr. Morgentaler:** No, they are not applied now because it is against the law. As you well know, the number of therapeutic abortions is very low because the only criterion that now permits the legal therapeutic termination of pregnancy is danger to the health of the mother.

**Mr. Stanbury:** When you say "usual criteria" do you mean the criteria which are usually discussed by people who are suggesting reforms in this field?

**Dr. Morgentaler:** Yes. I mean similar to the British bill that passed the British House of Commons, which is one of the more liberal bills.

**Mr. Stanbury:** That would be...

**Dr. Morgentaler:** In the case of rape or incest you would probably not have to deal with this because it would come within the first three months. I do not think a woman would wait for five months.

**Mr. Stanbury:** The British bill does not mention rape or incest specifically. They deliberately avoided mention of them, did they not?

**Dr. Morgentaler:** I thought that they...

**Mr. Stanbury:** I mean bringing it under the other considerations.

**Dr. Morgentaler:** Yes, they have the consideration where the birth of another child would put a tremendous burden on a mother who already has a few children. She will have to decide, along with the opinion of two doctors. This is the social provision which was passed.

**Mr. Stanbury:** Or under the provisions respecting her mental or physical health?

**Dr. Morgentaler:** Yes.

**Mr. Stanbury:** May I ask what unusual circumstances you feel would be sufficient for the granting of permission for an abortion after five months pregnancy?

**Dr. Morgentaler:** I think the only one I would accept is if the child were to be so damaged by an internal disease, or by something that might happen to damage it in such a way that it will obviously be born so crippled that it would be better in a sense to terminate the pregnancy than to permit this pregnancy to go on.

**Mr. Stanbury:** I presume you would also include serious danger to the health or life of the mother?

**Dr. Morgentaler:** Yes, definitely.

**Mr. Stanbury:** Mr. Chairman, those are all the questions I have to ask but may I say that it strikes me that this is the only proposal we have heard so far that seems to have a chance of actually wiping out the illegal abortion market. I do not think any of the bills before us could do it. Is that your impression?

**Dr. Morgentaler:** Yes, that is definitely my impression. As I said before, most of the proposals which are now before the Committee would only take care of about 10 to 15 per cent of those women who would fall into the categories which have been listed. Why cut off at only about 15 per cent of the women? Obviously an unwanted pregnancy is a hazard which can affect any woman of child-bearing age. This is widespread and it is in most cases the respectable, nice people who are married and who engage in normal sexual activity who are faced with these problems. It could be your wife, it could be your daughter, it could be mine. It could be anyone's. I think it is about time that Canada produced progressive legislation and legislation which will not merely limit its benefits to 5, 10 or 15 per cent of its women but to all women of Canada. I wish there were more women legislators in this country to decide on this issue.

**Mr. Stanbury:** You have been very helpful to me.

**The Chairman:** Mr. Knowles, you are next.

**Mr. Knowles:** Mr. Chairman, may I also say that I welcome this brief which is before us. Dr. Morgentaler, I welcome the openness of your approach to this problem as well as others. I made notes some moments ago of

two questions I wanted to ask. Perhaps they have been answered but as I have the floor perhaps I might get the answers underlined or confirmed. In the first place you have made it clear, have you not, particularly in reply to Dr. Brand's questions that you are not desirous of increasing the number of abortions that take place but rather you want them to be legal abortions rather than partly illegal and partly legal?

**Dr. Morgentaler:** Right.

**Mr. Knowles:** Now, my other question is one that Dr. Stanbury has just pursued but perhaps I might ask it again in my terms. Most of the proposals for legalizing abortion, including the bills that are before us, draw certain lines and provide that in some cases the decision shall be made by two doctors; others, for example the law people before us the other day, suggest that a bureaucratic board should decide. It is clear you are suggesting that at least for the first three months of pregnancy we wash out these distinctions. An accident has taken place, the person's health is at stake, and there would be no questions asked about how the pregnancy came about. It is your view that this is the course we should take up to three months.

**Dr. Morgentaler:** Yes.

**Mr. Knowles:** There comes the question of a board or a group of people making a decision only if the pregnancy is after the three months.

**Dr. Morgentaler:** Right.

**Mr. Knowles:** With regard to the statement in which you suggest a woman should sign that it is her responsible decision not to continue the pregnancy, I think we have all appreciated your suggestion that she should make this after she has had whatever counselling is available to her. Would you require that there be any indication, any certification of the fact that she has had that counselling or would you leave it right up to her?

**Dr. Morgentaler:** I think the woman who is pregnant knows best whether she wants this pregnancy or not and I think the counselling should be offered but not imposed. And again, in line with the previous question that you asked, Mr. Knowles, it is true that up to now the medical profession and most other institutions in our society have acted rather as authoritarian bodies that tell other people what is good for them.

I think we want to get away from this; we want people to decide responsibly for themselves what is good for them and I think a woman who becomes pregnant usually will know whether she wants this pregnancy or not and, therefore, if she does not know she will of course look for advice. She may ask her minister, or priest, or rabbi. She may ask a doctor or a psychologist and this is why I think she should be offered advice even free of charge. But I believe that in the final analysis the state should honour her decision.

On the question of boards, I think it is degrading for a woman to appear before a board of men, or even a few women, and plead her case ...

**Mr. Knowles:** That would probably be worse!

**Dr. Morgentaler:** I think it is degrading and humiliating. I think no woman should be subjected to this because we believe that it is a woman's right to seek medical attention and help for termination of an unwanted pregnancy at an early age of pregnancy.

**Mr. Knowles:** Thank you doctor. I think you have been most helpful.

**The Chairman:** Dr. Isabelle?

**Mr. Isabelle:** Dr. Morgentaler, do you speak French?

**Dr. Morgentaler:** Yes I do.

*(Translation)*

**Mr. Isabelle:** Then, I shall speak to you in French.

**Dr. Morgentaler:** Very well.

**Mr. Isabelle:** Are you an "M.D."?

**Dr. Morgentaler:** Yes, I am a doctor, an "M.D." in general practice in Montreal.

**Mr. Isabelle:** In general practice in Montreal. Now you must understand that the criticisms we sometimes make on briefs submitted to us are often due to the fact that we fulfil the function of the devils advocates; we want to know what everyone thinks.

Your brief surprises me. It is a dangerous liberty from all points of view; you leave the door wide open to abuse without any means of punishment in certain cases. On page 2 of your brief you divide women who may obtain an abortion into two categories: those who are married and those who are not. In the case of married women you give reasons which may be economic or psychological and

I include, of course, in the word "psychological" all matters pertaining to mental health. For unmarried women you mention seduction and ignorance which result in pregnancy.

Now, I am wondering whether, in your opinion, love may be considered a certain form of seduction? And if love is a kind of seduction, can we say that love, in such cases, may be catalogued or classified as an accident which would entitle one to an abortion?

**Dr. Morgentaler:** I should certainly like to reply to your question. First of all, dangerous liberty: I feel that liberty is always a little dangerous. Liberty must always be associated with responsibility. What we want is that people be free to choose and to be responsible for their choice.

Finally, in the facts mentioned, why does pregnancy occur? Obviously there may be seduction, rape, passion, sexual activity outside of and within marriage which results in a wanted or an unwanted pregnancy.

Now, if you say love, this is a question of semantics as love is a difficult thing to define. Love may have many definitions; there is platonic love which has nothing to do with carnal matters and with pregnancy; there is love involving the sexual act which is a very beautiful thing and which may result in pregnancy.

We limit ourselves, obviously, to the consequences not wanted by the woman and we make no distinction. Let us take the case of a woman who is not married and who acts of her own free will. The State cannot prevent her from having a boy friend and sleeping with him. No. We say that the State must not interfere in people's private lives. It is up to the woman to decide.

The Church, or the priest, or the minister or the rabbi will say that it is right or that it is not right. Obviously there may be different moral codes depending on the group concerned; we live in a pluralist society. Everyone has his own set of morals and it is not up to the State to impose its own. The State must enact laws for the common good. These laws must be liberal enough to apply to all cases.

A young girl 14 years of age, let us say, has been seduced and, as a result, becomes pregnant. What will happen? If her pregnancy continues, she will eventually end up in a home where she will abandon her child. The child will live in an orphanage, in most cases for two, three or four years; he may not be

adopted; he may become seriously disturbed or turn to crime later on. Rarely will he be adopted by a family.

Now what we want is that every woman have the right to decide for herself, in the case of an accidental pregnancy, whether love is or is not involved, if this accidental pregnancy shall continue or if she will seek an abortion through a competent doctor. Often these women turn to charlatans of all kinds who perform the abortion, causing injuries which may prove fatal.

We want every woman to be the one to make the decision. As I have already said, no woman will be forced to terminate her pregnancy and any woman who so wishes will continue, as is now the case, to let the pregnancy take its course.

**Mr. Isabelle:** To return to your question on liberty—I do not want to give a lecture on the subject—but I wonder where you would place, on the moral level, the case of a woman who, one evening, decides of her own free will that she wants to have a child and due to, let us say, various circumstances, often of an emotional nature, changes her mind one week later knowing that she is pregnant. Would you not look more favourably upon establishment of a legislative measure which would allow certain operations, certain therapeutic abortions if the physical or mental health of the mother depends upon it? The matter would be left to the medical profession, as it is a health matter. And if so, that is where it belongs. I would disapprove of any government that issued laws governing conditions for an abortion.

**Dr. Morgentaler:** To this, I have two answers. First, we want the State to extend the same rights to all its citizens; thus any baby who comes into the world is entitled to the same rights as the rest of the population. On this we are all in agreement.

However, obviously, if a woman decides one week after the birth of her baby that she no longer wants it, she should not have the right to take the baby's life as the baby has a life independent of that of the mother.

If you claim that this is primarily a medical matter, I agree that it should preferably be left to the medical profession. But with the legislation presently in existence, it is not left to the medical profession. Indeed, due to various reasons, the law does not allow the doctor to tell a pregnant woman seeking an abortion that he can operate. The doctor does

not have the right to perform the abortion; in fact, he becomes a criminal in the eyes of the law if he does so. Accordingly, we want greater freedom in the law so that every woman may have the right, particularly in the first three months of pregnancy, to say to herself: "Do I want to continue my pregnancy or am I unable to." If she says, "I cannot", she should have the legal right to consult a doctor who would himself, decide on the best solution in her case.

Only the doctor is mentioned. Yet the matter somewhat exceeds the bounds of medicine as it also borders on religion, morals and philosophy. If a woman consults a Catholic doctor who has religious scruples on the matter, as often happens, he will say to her: "Madame, I will not do it, I am opposed to it." But if the woman herself has opinions of her own on the matter she may consult a doctor who will agree with her and who will understand that she has the right to undergo an abortion. In this way, you give the individual freedom of action, you increase individual liberty in order to permit abortion as, otherwise, you force all women faced with an unwanted pregnancy to seek an abortion at the hands of charlatans and then suffer the consequences.

**Mr. Isabelle:** I would also like to ask you a question. You are no doubt aware that the principles underlying what you set forth in your brief were accepted in the early days of the Roman Empire. In fact, many abortions were practised to limit births. It was a demographic question and at the same time, a social one, in addition to being a question of love, naturally. (This word, as you mention, raises a question of semantics!) Indeed, society wanted young girls to preserve the beauty of their bodies as they represented beauty for the Romans. Of course, it was also and primarily a demographic question. Perhaps it was felt that there were too many people and abortions were permitted. However, one day it became obvious that the matter had gone too far, there was a desire to undo what had been done but it was then too late. The Roman Empire fell . . .

**Dr. Morgentaler:** That wasn't the only reason for its fall!

**Mr. Isabelle:** No, it was one of the reasons. We could also mention the Middle Ages. We could mention the year 4000 B.C. as at that time infanticide was accepted as a means of disposing of a population surplus.

Now, I wonder what would happen if the principle you defend were to be applied. Don't you think it would lead to the destruction not only of Canada but of the white race itself? I should like to raise another point and this will be my last question. Where would Canada stand in relation to other countries throughout the world if a law in accordance with the principles you just now set forth were adopted? In your opinion, Japan possesses one of the best laws in existence as it gives a rather wide measure of freedom in this respect. Would we not be going further than Japan in this field?

**Dr. Morgentaler:** These are rather provocative questions if I may say so. In the time of the Roman Empire there was much beauty as you state. I do not feel that we must necessarily continue to adopt or to abide by law that were enacted in different societies. The conditions in which we live are vastly different from those which prevailed at the time of the Roman Empire. Even the Biblical commandment, "Be fruitful and multiply", was perhaps valid 2,000 years ago as there were not enough people, but you know as well as I and as well as everyone, that uncontrolled fertility is one of the gravest dangers confronting humanity at the present time. Our population figure has already attained three and a half billions. Famine and disease exist and probably there will still be wars or epidemics. It is obvious that in the interest of the entire population of the world, it is absolutely necessary that births be controlled. As to the application of these principles to a society such as exists here in Canada, obviously we must admit that the country may still accommodate many more people than at the present. Rather, we are dealing with a question of individual freedom as we are aware that for a child to grow, to develop his personality, he must live in an emotionally stable environment with his mother and father, in a home where he will be cared for because he was wanted and where, as a result, he will be protected. When these conditions do not exist, when children do not grow up in a climate of harmony, they may suffer all kinds of emotional shocks which produce neurotics, criminals, etc. This probably occurs in the majority of cases.

However, if you say to me that this is some sort of infanticide or something of the kind, I shall reply that we do not recommend infanticide. We believe that to take the life of any human being constitutes a crime, and for

that reason, we state, in our brief, that after six months' pregnancy, abortion should not be allowed. At the end of six months or five months, we are dealing with a baby. No one has the right to deprive the child of life or liberty. But before that, as I mentioned right at the beginning, it is not a question of a baby yet but of a foetus, an embryo. It is the beginnings of a baby, something which may eventually become a baby. Now, to reply to your last question, where would Canada stand among the nations of the world? In my opinion, if the measure we recommend were adopted, Canada would be one of the most progressive countries in the Western world. I feel the time has come for our law-makers to look squarely at the facts and then to issue laws based on reason, competence, compassion, brotherly love and especially on realities.

(English)

**Mr. Isabelle:** One last question. Do you believe in a master race?

**Dr. Morgentaler:** No, I do not.

(Translation)

**The Chairman:** Mr. Matte, you have the floor.

**Mr. Matte:** I should like to raise one question. There was much talk about the religious point of view a little while back and in my opinion we cannot force people, by means of legislation, to accept our religious point of view. It is a very personal matter. Legislation must serve the common good of society and respect the right to life. However, do you believe that because there are many illegal abortions, they must be legalized?

**Dr. Morgentaler:** No. This is not sufficient reason to legalize them. If murders do take place, this does not mean that the State must legalize them. We base our position, as I stated previously, on the scientific view of the problem, on the fact that a certain number of women are forced to seek an abortion illegally. We are convinced that it is woman's inalienable right to have mastery of her own body. We say that pregnancy may be accidental. We raised arguments to support that statement. It is a question, basically, of the consequence of sexual activity. To our way of thinking, it should be possible to do something about such an accident. The woman fully aware that she is assuming her responsibilities should be allowed to deal with the matter. There are therefore various arguments, but the facts remain the same. Ac-

cording to what you say, obviously, I see that you think it a crime. And if you say it is a crime, why, therefore, should we legalize crimes? Because, precisely, the common good comes into play, and the State, obviously, cannot consider a single religion. The State must consult scientific facts and refer to values which are common to everyone. And as I have stated, this would be a permissive measure which would force no one to do what we propose, but which would allow those who do not share these religious convictions to avoid illegal abortions. Therefore, if a person, for personal, philosophic or religious reasons, were not in agreement and even if, let us say, she were faced with an unwanted pregnancy, she would not be obliged to undergo an abortion. She would continue to bear her child. As for other persons who, for other reasons, for personal reasons, and on the advice of a psychologist, a doctor, a religious minister or a priest, decide they can no longer carry out their pregnancy, they would be able to take advantage of this new law.

**Mr. Matte:** Is not one of the purposes of the conjugal act, that of procreation?

**Dr. Morgentaler:** Do you think that all conjugal acts should have procreation as their purpose?

**Mr. Matte:** It is a purpose.

**Dr. Morgentaler:** Yes, it is one of the purposes. Even the Catholic religion does not state that it is one of the principal purposes. It did say so formerly. If you read the declaration made by His Eminence Cardinal Léger and those of other important prelates of the Roman Church, one of the purposes of marriage is also to express conjugal love and that does not necessarily mean procreation, because if it was only a question of procreation, every woman would have at least twenty to twenty-five children. Imagine what that would mean.

**Mr. Matte:** As was mentioned formerly, do you not feel that anything concerning abortion should be placed completely in the medical domain, in the hands of doctors?

**Dr. Morgentaler:** I would be in agreement if the State did not legislate at all. I would be in agreement if Sections 209 and 237 were revoked so that abortion would not be considered a crime. And, from that time on, there would be no need to legislate.

**Mr. Matte:** Yes, but there would always have to be reasons to justify abortion.

**Dr. Morgentaler:** That is correct.

**Mr. Matte:** Abortion cannot be practised for any reason at all. It could be practised for reasons of health, if you wish, physical health.

**Dr. Morgentaler:** It is precisely for that reason that we prepared our brief. We give the reasons which in our opinion should persuade the State to allow abortions for certain persons who want or desire it, which is not presently the case. The State, as you know, does not permit it except in cases where the life of the woman is in danger, and such cases are very rare.

(English)

**The Chairman:** Mr. Brown.

**Mr. Brown:** I think the field of discussion has covered practically all the points on which I had first intended to ask a few questions, but I would like to stress again that I think your evidence, doctor, makes it abundantly clear to us that The Humanist Fellowship desires the law to be changed so that an abortion will be granted during the first three months of any pregnancy simply upon the request of the mother.

**Dr. Morgentaler:** Right.

**Mr. Brown:** Without giving any reasons. That pretty well summarizes it. Without giving a reason?

**Dr. Morgentaler:** Yes.

**Mr. Brown:** In her request that she registers. I understand that and in this respect I thought I would like to ask you an additional question to this effect: will the father of the pregnancy not have any say in this regard at all, according to your submission? Is that correct?

**Dr. Morgentaler:** No, I think I mentioned this before...

**Mr. Brown:** Yes, you did mention it; that is why I would like to clarify it.

**Dr. Morgentaler:** I think it should be a responsible decision of a couple to have the child...

**Mr. Brown:** Well, then...

**Dr. Morgentaler:** In most cases you have that, as most married people who have a first

or second child usually are very happy to have them and there is no conflict involved. What you have are cases where a couple already has three or four children and they are older and the mother is psychologically unable, as most women over forty are, to face another pregnancy. Then, of course, they will not want to have it and usually a husband who loves his wife will go along with her in this kind of decision.

Now, you could have, of course, a situation of conflict where the husband would want to have a child and the wife would say, "No, I do not want it", and in cases of conflict like this, well, my ideas are just tentative.

**Mr. Brown:** And vice versa?

**Dr. Morgentaler:** It is also possible, yes. So, I think that obviously it should be left to the couple, but if the conflict is so clear-cut that the woman says, "I do not want to have this child" and the husband says "I want to have a child", for his own personal reasons, then I think in a case like this my own personal preference would be to give the right to the woman to decide because it is the woman who will carry the child and the woman more than the man has a responsibility to give the child care and affection for a number of years. It is a sort of contract which she undertakes—a natural contract—to give this child whatever it needs and for a husband to insist that a wife should have a child in spite of her absolute refusal I do not think would be very honourable and would prove that something is wrong with the marriage.

**Mr. Stanbury:** It may be grounds for divorce.

**Dr. Morgentaler:** Yes.

**Mr. Brown:** I understand, doctor, your point of view, but I also want to make it clear that you are not advocating that any request should be signed jointly by the mother and father under your presentation. Is that right?

**Dr. Morgentaler:** Yes; as I said before I think that with most good couples—I would say about 95 per cent—if they have decided that they do not want the pregnancy to continue usually the husband will go along with the woman and if she signs it is usually, I imagine, with the consent of the husband. You might have then a very low percentage of cases where the husband would want a woman to continue her pregnancy but she will not and, as I said before, my personal

preference would be to grant this right to the woman. This is especially so in the case of unmarried women who accidentally get pregnant and where the father is either absent or does not want to assume the responsibility or, his own personal vanity, might want this girl to have a child by him, while he has no responsibility whatever.

**Mr. Brown:** I understand your answer, but in this matter we as a Committee have to review the law as it is at the present time and make a change in the law and I wanted to be sure that when it came right down to it what the The Humanist Fellowship desires of us is that we change the law so that a pregnancy could be terminated lawfully upon the request of a mother only. I think I understand.

**Dr. Morgentaler:** Yes; quite frankly this is exactly what we want. We feel that a pregnant woman is not yet a mother. The question of semantics enters into this very much. A pregnant woman is not yet a mother. She becomes a mother when she delivers a child.

**Mr. Brown:** I am sorry I used that word and I will be careful. The mother of the pregnancy—we will call it that.

**Dr. Morgentaler:** All right; we can accept that, I guess. I think it is very important to keep semantics in mind, so that the words we use will really apply to the situation we are considering. When I say a pregnant woman should have the right to termination of pregnancy, I do not mean a mother should have that right, because when we say "mother" it means she already has a baby. According to all the scientific evidence I gave it is not yet a baby; it is a foetus; it is an embryo; it is a potential baby; and she does not want this embryo to become a baby. This is why I said previously that a pregnant woman should have as much counselling as possible before she makes the decision; but it should be left to her to make the request and to get medical help to terminate a pregnancy in the first three months.

**Mr. Brown:** You have suggested the setting up of a board which would make the decision when a pregnancy exceeds three months. However, you are not spelling out to us how that board should be constituted. Did I interpret that correctly?

**Dr. Morgentaler:** Yes.

**Mr. Knowles:** A hospital board, not a provincial board.

**Mr. Stanbury:** You made it clear that it would be a board of the kind that is now commonly known as an abortion committee.

**Dr. Morgentaler:** Yes.

**Mr. Brown:** Of a licensed hospital, you said.

**Dr. Morgentaler:** Well, I imagine that most hospitals should be licensed.

**Mr. Brown:** We had a discussion on that very subject.

**The Chairman:** I do not think we need go into that.

**Mr. Brown:** I will not question you on that. You further stated, as I recall, that after five months no abortion should be granted and you explained that somewhat and talked about unusual circumstances. You have left it to the Committee to define those circumstances. You are not spelling out the circumstances which should affect a board. Then after five months you take it away from the board again? Is that right? I would like to have that clarified.

**Dr. Morgentaler:** Yes. May I clarify this somewhat? The term "abortion" usually refers to an induced termination of pregnancy before the foetus becomes viable outside the uterus of the mother. After six months you call it a premature delivery. This is also a question of semantics. We want to make it clear that when the baby, as at the time of six months, can live outside the womb of the mother it should be considered a baby. Therefore, it should have rights which should not be tampered with; it should have all the rights that any Canadian citizen should be able to expect. This is why again we would leave it to a board if, in the seventh month of pregnancy, something happened to this developing baby inside the uterus which would mean that it would not live; and then, of course, a medical board would decide whether or not to make a premature delivery.

This happens in cases of Rh-incompatibility, where there is a blood condition in the baby. If that is allowed to continue up to term the baby will probably die, or be severely jaundiced, and a medical board will determine to do a premature delivery and give a transfusion to save the baby's life. Obviously, it then becomes a purely medical question.

**Mr. Brown:** Thank you, doctor; I have no further questions.

**Mr. Howe (Wellington-Huron):** Mr. Chairman, I have some questions in connection with this matter. There are several classes of unwanted pregnancies. There are the unmarried girl and the happily married couple, and unwanted pregnancy could probably occur in a marriage where the wife did not want the husband to know that she was pregnant. In two of these categories there is a certain amount of shame, embarrassment, or fear, felt by the women who become pregnant. In replying to a question by Dr. Brand you said that if the suggestions made in your brief were followed those who practice illegal operations would be out of business. Are there not certain people in those categories that I mentioned who will still be so afraid, so ashamed, or so embarrassed that they will look for people to carry out these illegal operations?

**Dr. Morgentaler:** This would be very unlikely, because, as you know, doctors are bound by the principle of professional secrecy. They often get confidences from people and confessions by people who obviously do not want their spouses or fathers, or mothers, or anybody else, to know what their condition is. That principle is a very important one. It should not be breached. It will apply. Most women know about it. I do not envisage what you suggest playing a major role. I rather think that if it were legalized, even if there was shame, or guilt, or a woman would not like her husband to know, she would still consult a qualified medical practitioner, knowing that what she was doing was completely confidential; and in that case her husband may not even have to know about it. Again, the principle of individual responsibility will be well maintained. Some of these women are obviously driven to an illegal abortionist because they feel guilty or ashamed, or cannot stand the possible shame. If they have no chance of an illegal abortion they may even resort to suicide. We know that there have been many cases where women just could not face the shame of having an illegitimate child, or an illegitimate pregnancy, and suicide was the result. Obviously, by liberalizing legislation you will be saving hundreds, and possibly thousands, of lives.

**Mr. Howe (Wellington-Huron):** But do you feel that this will completely eliminate the illegal operation?

**Dr. Morgentaler:** I think so. It is obvious that no woman will prefer to go to a quack or a charlatan who might butcher her and endanger her life if she is able to go to a hospital where she can, with dignity, undergo a medically safe procedure under sanitary conditions. Obviously, it would be a very unusual woman who would prefer the first course.

**Mr. Howe (Wellington-Huron):** Well, these are unusual circumstances.

**Dr. Morgentaler:** They would not be unusual if the law were liberalized. It would be a very sick woman indeed who would degrade herself and risk her life rather than have a normal medical procedure done under normal conditions.

**Mr. O'Keefe:** Why did this not happen in Sweden?

**Dr. Morgentaler:** Why did what not happen?

**Mr. O'Keefe:** When it was made legal in Sweden why did the number of illegal abortions not go down?

**Dr. Morgentaler:** In Sweden they have a board composed of a number of men, doctors or otherwise, before which the woman has to appear and plead her case. In many instances the board refuses to grant a medical therapeutic abortion and that means many of these women then have to resort to illegal abortion.

**Mr. O'Keefe:** And this happens everywhere?

**Dr. Morgentaler:** Yes.

**Mr. Forrestall:** Doctor Morgentaler, I also wish to thank you for appearing and for the time you have taken in preparing your brief.

I have just two short questions. First, what was the source of the information contained in the statistics set forth in your brief? Would you enlarge upon how you arrived at those figures?

**Dr. Morgentaler:** Since I became interested in this I have done a lot of research on the question and I think, as I mention in the brief, it is impossible to obtain validated statistics. The only statistics that are available are inferred. We have used statistics but many deaths because of illegal abortion are not listed as such and many suicides as the result of an unwanted pregnancy are not listed as such at all. Illegal abortions, by the new term itself, are illegal; they do not come to the attention of the authorities or anybody

unless something very wrong happens, such as the woman dies or goes to a hospital, and so on. These are all inferred statistics. It is very hard to know how true they are. As I said, it is just deduced from different elements such as admissions to hospitals, and so on.

**Mr. Forrestall:** Your guess is that there was some question as to the education that lies behind them?

**Dr. Morgentaler:** Yes.

**Mr. Forrestall:** The secondary matter that I wish to discuss is one that I am primarily concerned about. Like most people I think we are aware that some changes have to be made in the laws, and perhaps for different reasons, but we agree that some changes have to be made. I am very concerned, doctor, about the progression of your philosophy, your thought or the premise that you used and which seems to permeate your brief. It seemed to me that if you follow your argument through to another natural conclusion, and accepting the same premise, this Committee or some subsequent committee must very shortly, within the next year or two, start looking very seriously at the question of euthanasia. Would you care to comment on that?

**Dr. Morgentaler:** Yes, I would like to comment on that. This question is in line with many others which presuppose that if you produce changes in the laws, changes which are only minimal and good, that eventually some Doomsday you will reach the point where all the institutions or societies will somehow be swept away and a tide of immorality, crime or what-not will come upon us. I do not think there are any grounds for this. I think there are many laws on our books that are obsolete and out-dated which create tremendous misery and injustice, and that as legislators I think you have an obligation to up-date these laws and make them as liberal as possible and, as I said, to take into consideration reason and compassion without throwing everything overboard.

I think there are obviously certain criteria under which you have to work. Now, I mentioned before some of our philosophical criteria. These criteria include the dignity of the individual, the sanctity of human life, the desire to have a better life, the need for a society which is peopled by individuals who have a sense of freedom with responsibility, and there are many others that I could mention which are common ideals of Western

democracy. We do not try to change these ideals; we try to apply the knowledge that we have and bring in these ideals in order to produce better and more rational laws. This is all we are trying to do. We are not saying you should force everybody to have this or that; we are saying you should take away what you now have that forces so many women into the hands of the illegal abortionists, which forces them to take terrible risks with their lives and forbids them from taking advantage of medical techniques in order that they may be helped. I do not think the question of euthanasia is valid here at all.

**Mr. Forrestall:** You see no parallel or no natural expansion...

**Dr. Morgentaler:** Not at all.

**Mr. Forrestall:** ... of the application of the principles outlined. I am afraid I do. I am very much startled by what we seem to be doing; not necessarily what we are doing but what we seem to be doing.

Just one further thought that goes back to the question of the decision process. Have you had occasion to read the Canadian Bar Association's brief?

**Dr. Morgentaler:** Yes, I am familiar with it.

**Mr. Forrestall:** Could you comment briefly, then, on their proposals for a board. How do you see that fitting in or where might the conflicts lie?

**Dr. Morgentaler:** As I said before, I think the Canadian Bar Association, the Canadian Medical Association, the proposals by the Association for the Modernization of Canadian Abortion Laws and all these other briefs do not go far enough. As I suggested, they would produce a certain liberalization of laws which would apply to certain classes of women, maybe 5 or 10 per cent of those who are now affected, but they would not apply to about 80 or 90 per cent of the women who do not fit into these categories; married women with children who are using birth control methods and who do not want any more children and then accidentally get pregnant. The question of a board is again, as I see it, an inquisition, a sort of authoritarian inquisition by the state and women should have this privilege as a right, they should not have to appear before a number of men to plead their case. This right of a woman to her body should be finally acknowledged by the law.

**Mr. Forrestall:** Fine, thank you.

**The Chairman:** All the members of the Committee have now asked at least one series of questions and I will therefore recognize Mr. Allmand.

**Mr. Allmand:** Dr. Morgentaler, you suggested that after five months of pregnancy no abortion should be allowed. You based that suggestion on the fact that after five months the child could possibly live outside the mother and therefore at that stage you give this child the rights and protection afforded to a human being. Mrs. MacInnis brought up the case of unwanted children. It is very possible, and probably often happens, that a child might become unwanted after a period of five months. For the first five months the woman may want the child and then after five months her husband may become unemployed, she may be offered a very attractive job, war may start, there may be a depression, many things might happen, they may find out that the child may not be completely healthy, et cetera, but despite the fact that the mother may not want the child after that date you would still not let her make the decision and you would still insist that she should not have the abortion. Whether she wants the child or not does not make any difference after five months because you say that these rights have been given to this child.

Is it not possible that medical science and biology may advance to the stage where a child might be able to live outside the womb before the fifth month, and if that were so would you, as the basis for the five months cut-off date where you give all these rights to the unborn child is merely based on whether it can live outside the womb or not and if science should be able, let us say, to keep the child alive after three months, would you then agree that no abortion should be allowed at all and all the rights should be given after three months whether the woman wanted the child or not?

**Dr. Morgentaler:** I think this is a very interesting question. I also think I will have some trouble answering it because it is indeed a very complex matter. What first comes to my mind is that for those who are Catholic and who have distinctly Catholic doctors I think the major difference between our attitude and that of the Catholic doctors, in a sense, is that Catholics believe it is a child or a soul, or whatever it is, from the moment of conception; that is, from the

moment the ovum and the sperm cells unite to produce all these changes that eventually will give rise to the delivery of a baby at the termination of nine months of pregnancy.

**Mr. Allmand:** But I am using your definition, doctor.

**Dr. Morgentaler:** Yes, whereas we believe that...

**Mr. Allmand:** That the child can live outside the body.

**Dr. Morgentaler:** We believe that it is a child only at a certain stage of that pregnancy. As you have pointed out, Mr. Allmand, it is a tricky question to decide at what point you can consider this to be a child and if you are not dogmatic and do not abide by certain dogmatic texts but try to figure it out according to the scientific evidence of what embryology teaches us you obviously have to adopt a different line of reasoning and say that at six months of pregnancy the child is viable outside the womb of the mother. Consequently we would say it has undergone certain transformations, it is obviously a baby, it can live in an incubator and at this time we would say it is possible to consider it a baby and there should be a cut-off date.

**Mr. Allmand:** I do not want to put down your reasons, you see.

**Mr. Isabelle:** I would like to interject for a minute on this question of the beginning of life.

In a landmark case in 1946, a United States Judge observed, "From the viewpoint of the civil law and the law of property, a child en ventre de sa mère is not only regarded as a human being, but as such from the moment of conception—which it is in fact."

**Dr. Morgentaler:** The fact that a judgment by a judge, however eminent he may be, has been rendered does not necessarily make it a true opinion or an opinion which is true according to scientific fact. I think you probably could find examples from jurisprudence of all kinds of erroneous judgments and all kinds of obsolete laws which do not apply and which do not jibe at all with the scientific evidence that we now have.

**Mr. Allmand:** I want to stick to the scientific, not what courts say, because courts give terrible judgments.

**Dr. Morgentaler:** If you will permit me to finish what I have been just saying I will come to that. What we want to do is to establish at what point this product of conception should be considered a child. As I said before we have taken the idea that the time of extra uterine viability—the time at which a baby which is formed could survive outside of the womb of the mother—is six months. This is the time we have taken and I think you could say it is arbitrary. I admit it is arbitrary but it is more in line with what we know about embryological development than what we have had up to now. The fact is that we cannot limit ourselves just to this one consideration. I think it is important to take into consideration the totality of the situation. As I have said before, and I wish to repeat this now, at the moment of conception the embryo is very tiny. At three months the diameter of the forming embryo is only about nine centimetres, so obviously it is not yet a baby.

**Mr. Allmand:** That is correct. In your opinion there becomes a stage when it does become a baby and this is evident. At that stage you give it rights and whether the mother wants it or not you will not let them terminate the pregnancy. Right now you say that embryology says it is five or six months. I would like to know, as a member of Parliament and as somebody who has to make up his mind about this, whether that is unanimous medical opinion. I would also like to know what the general opinion is about this and if medical science is advancing to the extent that it might be able to do this at four months or three months. I will leave this question for other witnesses who might be called to represent the medical profession.

**The Chairman:** They will be here next . . .

**Mr. Allmand:** I see. You have also said that after three months you would not allow the woman to make the decision herself. After three months you would make her submit to the board. Yet, at other times during your statement you have criticized that very much—the humility of making a woman come before a board and submitting her problem. Then you suggested that after three months she must come before a board and that it is very possible that this board, as you suggest, might turn her down despite the fact that she may not want the child. I would like to know this. The basis is not clear in my mind. It seems to me you have given the foetus more rights after three months than it

had before three months but fewer rights than it had after five months. After five months its rights are based on the fact that it is viable outside the womb. I would like to know on what basis it has more rights at three months than it had before three months—what scientific basis?

**Dr. Morgentaler:** I would like to answer your questions to the best of my ability. First of all I wish to say that it is not a unanimous medical opinion because as I said before this question of legal abortion transcends medicine and has to do with moral and philosophical attitudes towards life, about the quality of life and so on. The medical facts . . .

**Mr. Allmand:** Despite those other things after five months you do not consider those.

**Dr. Morgentaler:** I will come to that.

**Mr. Allmand:** After five months you say that there is no reason why you should allow an abortion.

**Dr. Morgentaler:** The medical facts as we know them are obviously the same for me as for everybody else here and whatever medical controversy there is about the different facts and eventually right here will win out. I think there will obviously be Catholic doctors who will go along with the official Catholic doctrine.

**Mr. Allmand:** Not if they are scientific.

**Dr. Morgentaler:** Pardon?

**Mr. Allmand:** Not if they are good scientists.

**Dr. Morgentaler:** It has nothing to do with whether they are competent doctors or not as far as the questions of abortion or contraception are concerned. Obviously there will be Catholic doctors who will go along with the Catholic doctrine and I respect their points of view. There will be Jewish doctors who may have different points of view and there will be humanist doctors who will have different points of view. We all will agree on the medical facts but the difference lies in the interpretation of the medical facts. So, it is not a unanimous medical opinion. The facts are the same for everybody and it is not a question of controversy. What is a question of controversy is how we should apply the laws to this particular problem.

The question you raised with respect to whether it might be possible eventually to have a foetus live after three months, a

month or even after the moment of conception—it is possible. Many things are possible. When the situation arises I think laws and attitudes will have to be changed. For the time being it is still science fiction but medicine is making so much progress that it is theoretically possible that such a contingency might arise. It is not here yet.

As you mentioned—and I wish to stress it again—we think that a woman who is in her first three months, because it is easy and because this is enough of a time period for a woman to make up her mind, should have the right to an abortion on request. If she has not asked by then and then changes her mind—that is exactly why we think there should be a board. It is in the same way as we think that no woman, let us say, a day after the baby has been born, should have the right to terminate the life of that baby. I would consider that murder and I think everybody would because at the time it was an independent human being. We try to extend the rights of the individual human being to the time that we consider this baby would be able to live outside the womb of the mother. I think I have answered all your questions.

**Mr. Allmand:** Well, not quite but I do not think I will pursue it. You have not said why you would have the woman submit to a board after three months when you consider a board so bad. I do not know what the reasoning is that gives the child more rights after three months than it had before three months. You must admit that the woman actually does not have the decision after three months. You can give her full decision before three months but after three months she no longer has the decision because the decision is in the hands of the board. They can refuse her after she has had to go through the humiliating process of appearing before the board. I would like to know the basis of this argument because it is very important. All of a sudden the child's rights are in the hands of a board rather than in the hands of the mother. Could you answer that for me?

**Dr. Morgentaler:** Yes, I will try to answer this. I think that what we are trying to say without getting down to exactly the time limit, because I think this can remain flexible, is that up to five months of pregnancy a woman should have the right to have the pregnancy terminated. As I have said, we tried to go according to different time periods

according to the scientific knowledge we have. After three months it becomes more difficult, it becomes an operation, and then we feel that within the first three months a woman would have enough time, consultation and whatnot to ask for it without having to go through a board. Of course, the board later on may be sympathetic. If anything arises to prevent this woman from having her case dealt with in the first three months of pregnancy then she still has an additional two months of a period of grace where she can appear before a board and state her case.

**Mr. Allmand:** The fact that she must go before a board after three months is not really based on the rights of the child but on convenience of operations and so on?

**Dr. Morgentaler:** Yes.

**Mr. Allmand:** I have one final question. It has always been a principle of both our public and private laws, and a principle which underlies many of our individual laws on crime, that there should be protection of life and property. This is found in the crimes of assault, murder, and infanticide; and we also have the principle that parents are not allowed to abuse their children. It is the law in many States that a person can inherit as soon as conceived; in other words, they have the full right to inherit as soon as they are conceived; and court actions can be taken on behalf of an unborn child, and so forth.

These principles are in the law, and there are very few exceptions. I know of only two. One is self-defence, when one can destroy another life; the other one is capital punishment, but many of us think that capital punishment should be taken out of the law.

You said that the foetus before five, or three months, is not really a human being; that it is in the process of becoming one; that it is a degree of life rather than the fullness of life. If on that basis, you can take a life, could you not then extend the principle? I would not do it in the case of euthanasia, because there the person agrees that his life be terminated, but in the case of, let us say, extremely retarded children, with very imperfect life, but who bless the womb and who progress to certain stages, could you apply that same principle and decide to take their lives because they are burdens to society, or a burden to a family?

**Dr. Morgentaler:** I think I made it abundantly clear previously...

**Mr. Allmand:** That is, against their will.

**Dr. Morgentaler:** ... that we believe in the dignity of life; we believe in all the rights to life of any human being. Therefore I would not favour the State abrogating the right to live.

**Mr. Allmand:** What about the family with a retarded child?

**Dr. Morgentaler:** Well, that is exactly it. Once a child is born, or, according to our brief, once the embryo is five months old, no one should have the right to tamper with that life, because it is already a being.

**Mr. Allmand:** You can say it is an imperfect life just as the foetus of, let us say, the thalidomide child is very imperfect.

**Dr. Morgentaler:** Well, this is your term, "imperfect". This again gets us into the semantics wrangle of what is perfect and what is imperfect life. There is no perfect life. None of us is perfect.

**Mr. Allmand:** That is right.

**Dr. Morgentaler:** Therefore, it does not apply, really.

**Mr. Allmand:** You justify the taking of the life of a foetus through the five months because it is a lesser degree of life. Those are your terms.

**Dr. Morgentaler:** If you were to take life because it is imperfect you would have to take the life of everybody living because there is no perfect human being.

**Mr. Allmand:** Doctor, you have suggested that we be allowed to take the life of a foetus of less than five months because you say it is not really life in its fullness, that it is less than life. I am giving you other examples where there is less than life, and I am asking if we should be allowed to take those lives, too?

**Mrs. MacInnis (Vancouver-Kingsway):** They are human beings.

**Mr. Knowles:** If we do not eat soon, we will all have less than life!

**Dr. Morgentaler:** I do not know. I do not think the question was well phrased. It gets us into difficulties of semantics.

As I said before, life is a process. In making laws you have to deal with the individual human being. You could say that the life of this individual human being, who is alive, is tampered with, or is abrogated, or is limited,

and so on, what—but when you talk about life in general every sperm cell is alive and every ovum is alive. Therefore, if you wanted to preserve all kinds of life you would really have a population now of perhaps a hundred or two hundred billion people who...

**Mr. Allmand:** That is going to the extreme of what I meant.

**Dr. Morgentaler:** Well, I have to. I am also aware of the fact that there is legislation which says that an unborn child, from the moment of conception, should have legal rights, and so on. This legislation is based on completely erroneous grounds and should be taken off the statute books as soon as possible. I think it also stipulates that the unborn child has rights provided it is delivered as a normal baby. It is obvious that if delivered as a normal baby it should have these rights, but it is very difficult to see that a very small foetus should have any rights at all.

As I said, you have to take the total situation and the proper context of this thing into consideration—the mother, the family, the conditions that prevail, and whether or not the pregnancy is wanted—and in this context you have to make the decision.

**Mr. Allmand:** Are you not contradicting yourself? After five months, or after a certain period, you accept that the foetus has the ability to live and then you do not take the total context. You say that he has rights, no matter whether he is unwanted or not, and that you cannot take that life. Therefore, the question really is: When does the foetus become a human being, whether according to your definition or a general one.

**The Chairman:** I am going to ask the witness not to answer because you are getting into a repetitious argument.

**Mr. Knowles:** I do not believe we have a quorum now.

**The Chairman:** No? Certain members still have some questions. I will allow each one a question and then we will adjourn the meeting.

**Mr. O'Keefe:** Mr. Chairman, if I was discourteous, as suggested by my good friend, Mr. Knowles, I apologize. I did not intend to be.

It appears, doctor, that the basis of your brief, which at least has the quality of frankness, is that the decision should be left to the

mother. You believe in freedom. What freedom has a little, browbeaten, abused mother if her drunken, brutish lout of a husband decides that she must have an abortion which she does not want? Where is her freedom of choice? And do not tell me this happens just among poor people; there are many rich louts, too, Doctor.

**Dr. Morgentaler:** This is exactly what our proposal is designed for. The woman who is forced by her husband to have a baby will be able to have . . .

**Mr. O'Keefe:** Forced to have an abortion.

**Dr. Morgentaler:** She will go to a doctor and have an abortion in spite of the husband.

**Mr. O'Keefe:** And then come home and be beaten around the kitchen again? There is no freedom of choice there, Doctor.

**Mr. Knowles:** A husband cannot force an abortion.

**Mr. O'Keefe:** He can quite easily browbeat her into having an abortion, Mr. Knowles; you know that. Have you no serious qualms, Doctor, about ending the life of a Steinmetz because he is crippled. I could give you many thousands of examples. The classic one is of the syphilitic father and the tubercular mother who produced Beethoven. Forgetting all about religion, have you no qualms about that?

**The Chairman:** I do not consider that a fair question, Mr. O'Keefe.

**Mr. O'Keefe:** It is a question. I am asking him if he has any qualms. He has none?

**Dr. Morgentaler:** Qualms about what?

**Mr. O'Keefe:** About aborting a baby born of a syphilitic father and a tubercular mother? I am very confident that the majority of doctors who did not have a Catholic conscience would abort that foetus. Would you agree?

**Dr. Morgentaler:** I would agree, definitely.

**Mr. O'Keefe:** Then we would have lost Beethoven.

**Dr. Morgentaler:** I would agree that a foetus resulting from the mating of a syphilitic father and a tubercular mother should be aborted.

**Mr. O'Keefe:** Well, that pregnancy produced Beethoven.

**Dr. Morgentaler:** Produced what?

**Mr. O'Keefe:** Beethoven.

**Dr. Morgentaler:** Oh, this is a good argument, but it is one which . . .

**Mr. O'Keefe:** Or Helen Keller, or a Steinmetz . . .

**The Chairman:** Mr. O'Keefe, please let the witness answer the question.

**Dr. Morgentaler:** This argument is completely nullified by the fact that if you had had legal abortions you perhaps would not also have had Hitler, or Mussolini, or Stalin, or many other . . .

**Mr. O'Keefe:** I think they have the right to life.

**Dr. Morgentaler:** Therefore, it evens itself out.

**The Chairman:** Are there any other questions?

**Mr. Brand:** I have one further comment. In view of your brief, Doctor, if this law of abortion is proclaimed, would you in the first week, like to have it called "Accident Prevention Week"?

**The Chairman:** We will adjourn on that note. No witnesses have been called for next week. On October 31 we are to hear the witness of the Canadian Medical Association, and we will call the geneticist on a separate occasion.

**Mr. Knowles:** I think we should extend special thanks to this witness.

**The Chairman:** Many thanks, Dr. Morgentaler, for having braved our committee this morning.

## APPENDIX "D"

BRIEF ON ABORTION AND  
CONTRACEPTION LAW REFORM  
OF THE  
HUMANIST FELLOWSHIP  
OF MONTREAL INC.To  
THE PARLIAMENTARY COMMITTEE  
ON HEALTH AND WELFARE

The Humanist Fellowship of Montreal Inc., is an association representing a philosophy of life known as naturalistic or ethical humanism. This philosophy affirms the inherent dignity of the individual, whatever his race, religion or nationality and holds for its goal the pursuit of happiness through realization of potentialities of the individual to enable him to live a meaningful life consistent with responsibility to other human beings and to society.

These ideals should be reflected in the laws governing our society which should provide equal justice and benefits to all, rich or poor, informed or uninformed, believer or non-believer, and be continually updated in accordance with new conditions and new knowledge.

The Fellowship's attention is drawn to the unnecessary deaths, injuries as well as severe suffering which result from the prohibition against legal abortion; it also views as outdated and detrimental the prohibition against the sale and advertising of contraceptive devices.

## I. Abortion Law Reform

The legislation in the field of abortion is a perfect example of the carry-over into our times of religious notions which have no further application nor justification in our day and age. It is an attempt to impose on all the citizens of this country concepts held by some religious groups which are at present the cause of permanent injury and death to many.

## Statistics of Illegal Abortion

It is estimated that one million women in the United States and 100,000 in Canada annually undergo illegal abortions. Many of these women, (8,000 in the United States per year, probably 800 in Canada) die as a result of these operations done by unqualified per-

sons under conditions far removed from acceptable medical standards, and many others are crippled for life by infections, blood loss and injuries resulting from these manipulations.

## Reasons for Seeking Abortion

Most of those seeking abortions are married women with a few children who do not want another child for economic or psychological reasons. Many have been practising birth control and the pregnancy is a result of the failure of one or another of the methods employed to limit the number of children desired by the couple. Some women resorting to abortions are unmarried and unwilling or unable to marry or to give adequate and proper care to a baby. In some cases the pregnancy may be the result of violence such as rape and in others the result of seduction with little realization on the part of the woman of the consequences as far as pregnancy is concerned. *In all cases mentioned above the pregnancy is unwanted by the prospective mother;* and is a result of sexual activity whose aim was NOT procreation; in short *IT IS AN ACCIDENT.*

In another category of women seeking abortions are those who are pregnant and look forward to having a baby, but who, as a result of disease or drug intake have reason to fear that the offspring to be will not be normal. The thalidomide tragedy is a recent and poignant example of the kind of situation in which a pregnant woman might have well-founded doubts as to the normalcy of her baby. Another such case would be a woman who in the first three months of her pregnancy falls ill with German measles; it is well known to say that this disease in the mother will affect the foetus in a large proportion of cases, and may cause abnormalities of the heart, brain, and other organs, resulting possibly in a baby crippled for life.

A mother whose intention it is to limit her family to two or three children may want to have her pregnancy terminated if she should have the misfortune of drug treatment or disease giving a high probability of abnormality in the developing foetus. She may reasonably expect that her next pregnancy may have a normal course and she may be entirely justified on psychological and moral grounds in wanting to have normal children rather than abnormal ones. She may then join the women whose pregnancy was an accident, in seeking an abortion on the grounds that *an accident* has happened during pregnancy to diminish seriously the chances of being delivered of a normal baby.

Although in all cases cited above it is the desire of the woman or the couple to have the pregnancy terminated, it is impossible to have it done by competent medical personnel with a minimum of risk, since the law makes it a crime to perform an abortion under these circumstances. A medical doctor in Canada who would like to help a woman in distress asking him to perform an abortion on the above grounds would be liable to prosecution and to long years in jail. As a result, most women in the predicament cited above are reduced to seeking illegal abortions done either by doctors motivated by the lure of quick money and willing to take the risks, but who on the whole know how to operate with skill and little danger to the woman; or else by nurses, orderlies, quacks and sundry charlatans who are incompetent to do the job adequately, who often operate in sordid, unhygienic places, who exploit the women financially and who mainly account for the great number of deaths, infections, injuries, blood loss and psychological damage.

It is easy to imagine the desperation that drives these women into the hands of abortionists, that compels them to accept such risks to their lives and health. No adequate statistics exist but it is equally well known from individual cases that many women will go so far as to commit suicide rather than go through with a pregnancy that would result in shame impossible for her to bear, or as in cases of many women around or over forty, would result in a situation for which they are not prepared psychologically and which might cause serious depression.

#### *Other Results of Present Laws:*

As a result of the present laws, a large number of women, especially those who cannot afford the price, may go through with

their pregnancy and bring an unwanted child into the world. In the case of the unwed mother she may decide to keep the child and to bravely and with difficulty face the world and a society which will disapprove of her and make her lot and that of the child a hard one. In most cases, the unwed mother will place her child for adoption; it may then remain for long months or years in creches or hospitals if adoptive parents are hard to find—a situation quite frequent across Canada, where adoption rules are outdated, and where religious barriers often prevent many children from being adopted at all. The fate of an unadopted baby is not enviable and the psychological damage to such a child is well documented. Many neurotic and psychotic people, many criminals and anti-social individuals can trace their difficulties to emotional deprivation in a childhood spent in institutions or shifted about from foster home to foster home. The cost to society in crime, illness and human misery is enormous. It is well known and well documented that a wanted child has a much better chance to grow up an emotionally healthy individual than an unwanted child. It is important for a society which cares about human beings and about their health and well-being to bring about conditions where most children will be wanted children.

Why then deny to a woman the right to terminate a pregnancy which she does not want and why force her to have an unwanted baby? Why not offer medical help when it is sought for an accident of sexual activity or for an accident during pregnancy resulting possibly in a malformed baby?

#### *Arguments Against Legal Abortion and Discussion*

Most arguments against granting a woman the right to have her pregnancy terminated on her request are based on religious prohibitions. (many of which antedate the present knowledge of embryological development) which defend the sanctity of human life and consider it sinful for man to intervene—(a foetus or embryo is considered a human life). This argument goes back to the times when it was imagined that at conception a homunculus is formed in the uterus and that the nine months of pregnancy are necessary only to let this complete homunculus acquire the right size necessary for extra-uterine life. As we now know (and it should be stressed that most of our knowledge of conception and embryological development is only one hun-

dred and fifty years old) there is a gradual development of the embryo from a fusion of two cells into a multicellular organism undergoing a sequence of ordered and well-timed transformations, which, if successful, will at about nine months cause the delivery of a normal baby. At the beginning of pregnancy the foetus is not a human being; it is a potential human being. This embryo is 1 cm. in diameter at one month, 4 cm. at two months and 9 cm. at three months. It has no possibility of extra-uterine life until six or seven months; up to that time the embryo lives a parasitic life dependent on the mother's blood supply. Our argument is that termination of a pregnancy in the first few months is not the taking of a human life; it is the termination of a potential human life. This is by no means the same thing; theoretically each sperm cell and each egg cell (ovum) are half-potential lives; yet nature has provided for millions of sperm cells in each ejaculate that go to waste and do not fecundate the ovum and likewise most ova are wasted without giving rise to a new organism.

Is it reasonable to assume that where a union of sperm cell and ovum has taken place, although unplanned and unwanted, it may not be terminated consciously by readily available medical means if the woman who is supposed to carry the foetus has decided against it and asks for medical assistance to get rid of an unwanted product of sexual union which is not yet an individual human life, but only a potential human life? If we accept that many women limit their families for obvious and good reasons to 2, 3, or 4 children, shall we assume that they deprive of life 15 others which they theoretically could conceive and carry? And if we take a look at the current population explosion, is it not obviously better to limit population growth to fit conditions and be able to provide food and decent opportunities for a limited number of children, than to deprive a greater number of a good life? But aside from these considerations, is it not the prospective mother, preferably together with her husband, who should make responsible decisions as to the number of children desired? A woman should have a right to her body; a growing foetus is part of her body; should she decide that she does not want the foetus, it is clearly her right to ask for medical assistance to get rid of it. A denial of this right is a clear violation of a woman's right to decide what to do with her body, and with

a product of conception she does not want. We uphold this right.

Some people might argue that a woman might regret a decision to seek abortion or that she might have some psychological scar from it; this is obviously true to some extent. We recognize that it is a serious problem for a woman who finds herself pregnant, to make up her mind against having a baby which in other circumstances she might have welcomed as the greatest happiness in her life. However, no matter how painful such a decision, it is still the woman, the prospective mother, who should be the one to decide. An unwanted baby in poor circumstances might create much more of a psychological shock, especially if it has to be abandoned to be adopted, than the decision to get rid of a tiny foetus which is not yet a baby.

We think that psychological counselling should be offered to women with such problems of conscience and that medical advice should equally be made available, especially in cases where the prospect of the baby being born normal is in reasonable doubt.

The fundamental point in question here is that the woman should have the right to make up her mind on the basis of facts, an evaluation of the moral, scientific, medical, economic and personal factors involved, and that it is up to her first, preferably in consultation with husband or mate as the case may be, to decide whether she wishes to undergo a therapeutic abortion, *Her decision when final should be respected by the State.*

It is obvious that women who have objections on personal, religious or other grounds, to undergo an abortion, will not seek it and will go on with a pregnancy even if it was not a planned one. This is their choice and will in no way be altered by new and more liberal abortion laws.

The spectrum of religious opinion regarding abortion is very wide indeed, and ranges from outright condemnation on any grounds to acceptance on limited grounds. Positions are shifting and changing as the traditional religions are coming to deal with this problem, trying to adjust their dogmas to new situations arising out of advances in medical knowledge and techniques which substantially alter the framework of sexuality, contraception and population control.

#### *Is Abortion Murder?*

The charge of murder hurled against women who have undergone abortions and

those who helped them is a most serious one and should be dealt with. Many thoughtful persons are opposed to abortion on the ground of the biblical injunction "Thou shalt not kill." What about these charges? When we speak of killing or murder, we have in mind the wilful act of terminating the process of life in an individual who is alive. There can be no question of killing or murder when we are not in the presence of a living individual. If, as explained above, the process of embryological growth was conceived of as the growth of a complete but small homunculus (small man) it was logical to talk of murder. As we now know, there is no such thing as a homunculus and consequently the reason behind this charge of murder is all wrong. You could also argue that abortion is murder when you have a body endowed with a soul; according to previous church doctrine, the soul entered the growing foetus, not at conception, but around 40 days after it for a male foetus, and 80 days for a female foetus; in case of spontaneous abortion no burial or ceremony was necessary before that time. It is not clear why the arbitrary date of the entering of the soul into the foetus, but this again seemed based on some pre-scientific concept. Present Catholic Church doctrine considers it a crime and murder to tamper or destroy an embryo from the moment of conception; it talks of taking a 'life' from the moment of fertilization. An element of semantics enters the debate here which it is worthwhile to elucidate; life is a process; it is not a noun. When it is used as such as in the expression 'a life', what is usually meant is a living human being. It would therefore be a good thing to avoid loose expressions which are misleading and use those which are more closely related to the realities as we know them. Thus, it is correct to talk of a 'living foetus', a 'living embryo', a 'live baby', etc. To terminate a pregnancy within the first three months would mean to terminate the chances of a living foetus to become a baby; it would not mean the killing of a 'life' or a 'living baby', since no living baby has yet existed.

In order to show the arbitrariness and relativity of the Catholic position it is well to point out that most Protestant churches do not share the condemnation of abortion as murder; also, that the Jewish religion does not consider the unborn child truly to be a living soul, a human being. Should a child die during birth no funeral service is held, no memorial prayer for the dead need be recit-

ed, because it is not considered to have lived at all.

It is to be hoped that the more liberal attitude of the Catholic hierarchy in this country towards problems affecting the whole population, which manifested itself in its lack of opposition to dissemination of contraceptive devices and which accepts the premise that Catholic principles do not have to be enforced on non-Catholic citizens by law, will also permit the enactment of permissive legislation regarding abortion law reform without too much opposition.

Taking into account modern scientific knowledge, a foetus up to six months of pregnancy can have no independent extra-uterine life; up to that time it should be considered as endowed with potential life. The transition from potential to individual life is a gradual process in time. The nearer to conception in time, the more the product of union represents a potential life; the nearer to extra-uterine viability, the more of an individual living baby it becomes. The termination of pregnancy up to the period of extra-uterine viability would deal with a potential life and could not be qualified as killing or murder.

The time period at which a foetus can survive and live a life independent of the mother's body is now, with modern medical techniques, around six months of pregnancy; theoretically, up to that time the foetus should be considered a part of the woman's body and an abortion allowed up to then. In practice, it seems advisable that a cut-off date for legal abortion should be established, after which a viable foetus should be considered as a person having a legal personality and protected by the law; it would seem reasonable that such cut-off date be established at five months of pregnancy since this would come close to the period of extra-uterine viability. After that period no abortions should be authorized.

In a pluralist society such as ours, it is inadmissible that laws regarding all citizens should be inspired solely by one or the other religious group; it is also regrettable that some churches would like to impose on all citizens laws which to them appear to be in contradiction with their principles or give rise to sinful actions. What may appear sinful to some may appear to others as normal and responsible.

It is not the task of the state to legislate what is sinful and what is not; it is the task of the state to provide laws which are rea-

sonable, which give the individual freedom of choice to avail himself of medical techniques and advances, and which protect his health and well-being against unreasonable hazards. It is on these grounds that we ask the Government to enact laws which will give women the freedom to seek a legal abortion, when they do not want the pregnancy, and in keeping with the medical standards of safety required.

### *Safety of Abortion Techniques*

The usual operation to induce abortion in a hospital setting is the D & C or dilation and curettage; in proper conditions and with qualified personnel this simple operation is fast, safe (four times safer than routine tonsillectomy) and without complications. As stated previously, most deaths, injuries and complications are caused by incompetent personnel operating without the benefit of modern medical techniques. It is obvious that if abortion does become legal the doctor who takes care of the woman will have to use whichever method is safest and best suited to the patient. After three months of pregnancy, abortion does represent more of an operative risk. However, theoretically, a woman might still have valid reasons for termination of pregnancy even then (for example, when the foetus might be known to be abnormal); therefore any request for legal abortion of a foetus between three and five months of pregnancy should be reviewed by an appropriate hospital board composed of competent personnel. As stated above, no abortion should be granted after five months of pregnancy since by that time the foetus is close to the period of viability and should be considered as a person with full rights protected by the law.

### *Proposals*

Consequently, we ask the Parliament of Canada to enact legislation which will permit any woman to obtain a legal abortion by a qualified medical practitioner provided that:

(a) She signs a written declaration that it is her responsible decision not to continue her pregnancy and that she assumes the risk of the operation.

(b) That the pregnancy does not exceed three months.

We also propose that any woman who wishes to have a legal abortion when the pregnancy is between three and five months be required to have her case studied and passed upon by a duly constituted medical

board in a licensed hospital. Up to three months of pregnancy a legal abortion should be granted on request. None should be granted after five months of pregnancy except in unusual circumstances. Since a decision whether to terminate a pregnancy or not may be for many a woman a very hard one to make, we feel that every effort should be made to provide for those women adequate medical and psychological guidance without cost, which should be assumed by the State under coming Medicare legislation. Spiritual guidance is usually readily available and freely to be chosen by the woman. However, as stipulated above, and within the above-proposed limitations, it should be the woman's final decision which should prevail and be honored by the State.

Consequently, sections 209 and 237 should be completely taken out of the Criminal Code or amended accordingly to above proposals; and the legal abortion be subject to the usual conditions of sound medical practice.

### *II. Dissemination of Contraceptive Information and Devices*

Finally, since we believe that it is the right of every person and every couple to use birth control techniques and devices according to individual judgment and without interference by the State, and since the proper use of such birth control techniques and devices will probably reduce the incidence of unwanted pregnancies and the need for abortion, we propose that the Criminal Code be modified and amended by eliminating section 150, sub-paragraph 2, sub-sub-paragraph 3 and permitting thereby the distribution of information and devices of contraception.

### CONCLUSIONS

There is a growing consensus of opinion in Canada wishing to extend the availability of legal abortions to cases of rape, incest, and where the pregnancy might cause medical or psychological damage to the mother. It is our opinion that it is the right of a woman to decide for herself whether she wants a pregnancy or not; that it is up to her to decide whether she may want to terminate a pregnancy she does not want, and that it is a duty of the State to allow the medical profession to offer the requested help that is readily available.

Laws based on above principles would not only be humane and rational, they would be a mile stone in that they would recognize the

right of the individual woman to her body and to the foetus within her body; that they would be permissive only and provide options for those who want to use these laws without compelling those who are opposed on religious or other grounds to avail themselves of them; and finally, that it would save thousands of women from death, disease and injury, which at present is their lot when they seek and undergo illegal abortions.

That we permit so many women to suffer these iniquities at the present time when help is available is a damning commentary on our society which is willing to sacrifice so

many on the altar of erroneous and outdated concepts refuted by modern knowledge. We have to learn to apply this knowledge towards human welfare; the time has come to write a New Deal in laws for the women of this country.

Our proposals are inspired by the desire to apply reason, knowledge and compassion to the problems faced by thousands of women, and to embody these principles in the laws of the country.

Respectfully submitted,  
The Humanist Fellowship  
of Montreal Inc.

(4)

HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1967

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STANDING COMMITTEE  
ON  
**HEALTH AND WELFARE**

*Chairman:* Mr. HARRY C. HARLEY

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MINUTES OF PROCEEDINGS AND EVIDENCE

No. 4

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TUESDAY, OCTOBER 31, 1967

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Respecting the subject-matter of

Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

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WITNESSES:

*Representing the Canadian Medical Association:* Dr. Douglas Cannell, M.D.,  
Previous Professor of Obstetrics; Dr. Donald Low, M.D., Ontario Division of CMA; Dr. Kenneth Gray, M.D., Clarke Institute of Psychiatry; Dr. D. M. Aitken, M.D., Assistant Secretary, all of Toronto; Dr. Gregg Tompkins, M.D., of Halifax, Past Chairman of the Maternal Welfare Committee.

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STANDING COMMITTEE  
ON

HEALTH AND WELFARE

*Chairman:* Mr. Harry C. Harley

*Vice-Chairman:* Mr. Gaston Isabelle

and

Mr. Ballard	Mr. Howe ( <i>Wellington- Huron</i> )	Mr. Matte
Mr. Brand	Mr. Knowles	Mr. O'Keefe
Mr. Brown	Mr. Laverdière	Mr. Orange
Mr. Cameron ( <i>High Park</i> )	Mr. MacDonald ( <i>Prince</i> )	Mrs. Rideout
Mr. Chatterton	Mrs. MacInnis	Mr. Rochon
Mr. Cowan	( <i>Vancouver- Kingsway</i> )	Mr. Rock
Mr. Enns		Mr. Rynard
Mr. Forrestall		Mr. Simard
		Mr. Stanbury—(24).

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

TUESDAY, October 31, 1967.

(5)

The Standing Committee on Health and Welfare met this day at 11:15 o'clock a.m., the Chairman, Mr. Harry C. Harley, presided.

*Members present:* Mrs. MacInnis, Mrs. Rideout and Messrs. Brand, Enns, Forrestall, Harley, Howe (*Wellington-Huron*), Isabelle, Knowles, Matte, Orange, Rochon, Simard, Stanbury (14).

*Other members present:* Mr. Allmand and Mr. Matheson.

*In attendance: Representing the Canadian Medical Association:* Dr. Douglas Cannell, M.D., Previous Professor of Obstetrics; Dr. Donald Low, M.D., Ontario Division of CMA; Dr. Kenneth Gray, M.D., Clarke Institute of Psychiatry; Dr. D. M. Aitken, M.D., Assistant Secretary, all of Toronto; Dr. Gregg Tompkins, M.D., of Halifax, Past Chairman of the Maternal Welfare Committee.

The Committee resumed consideration of the subject-matter of Bills C-122, C-123 and C-136.

The Chairman informed the Committee that the Canadian Broadcasting Corporation will present on television at 10:00 p.m. Sunday, November 5, a discussion programme about abortion in place of the National Film Board film referred to at previous meetings.

The Chairman introduced Dr. Aitken who, in turn, introduced the other members of the delegation.

Dr. Aitken gave a brief outline of the history of the resolution respecting "Change of Criminal Code *re*: Therapeutic Abortions".

*Agreed,—*That the resolution be taken as read and printed in the proceedings.

Dr. Aitken, Dr. Cannell, Dr. Tompkins, Dr. Low, and Dr. Gray answered questions of the Members.

*Agreed,—*That the article entitled "Therapeutic Abortion—A 12 year review at the Toronto General Hospital, 1954-1965", by Dr. Manuel M. Spivak, M.D., F.R.C.S.(C), Toronto, printed in the American Journal of Obstetrics and Gynecology of February 1, 1967 (Volume 97, number 3) be printed as an appendix to this day's proceedings, if permission is granted to do so by the Publisher.\*

The questioning concluded, on behalf of the Committee, the Chairman thanked the CMA and its representatives for their contribution to the work of the Committee, and at 1:05 p.m. the Committee adjourned to 11:00 o'clock a.m. Thursday, November 2nd.

Gabrielle Savard,  
*Clerk of the Committee.*

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\* When permission is received, the paper by Dr. Spivak will be appended to a later issue.



## EVIDENCE

*(Recorded by Electronic Apparatus)*

**Tuesday, October 31, 1967.**

• (11.15 a.m.)

**The Chairman:** Ladies and gentlemen, I call the meeting to order. Before we get down to the examination of the witnesses before us today, I should like to inform the members that the CBC will present a discussion program about abortion on November 5 in place of the National Film Board film which will not be ready on that date. The discussion program on abortion will include sequences edited for that film which the CBC has selected. I have no idea what format the program will have. Members of the Committee may wish to see the CBC program which will be transmitted 10.00 p.m., Sunday, November 5—that is, this Sunday—unless a change in program occurs that we are not aware of at the present time.

There is no other new business before the Committee; therefore, I welcome before the Committee today the representatives of the Canadian Medical Association. I will ask Dr. Aitken, Assistant Secretary of the Canadian Medical Association, to start the examination, and allow him to introduce the gentlemen who are before us today.

**Dr. D. M. Aitken (Assistant Secretary, The Canadian Medical Association):** Thank you, Dr. Harley. I should like to introduce the CMA delegation to the Committee. On my immediate right is Dr. Douglas Cannell, previous Professor of Obstetrics and Gynaecology at the University of Toronto and head of the department, and Chief of the Obstetrics and Gynaecology Services of the Toronto General Hospital. Next to him is Dr. Gregg Tompkins, who is Associate Professor of Obstetrics and Gynaecology at Dalhousie University, and Chief of Obstetrics and Gynaecology at the Halifax Infirmary. Next to him is Dr. Donald Low, who is a retired Professor of Obstetrics and Gynaecology at the University of Toronto, and who has served on the Ontario Medical Association's Committee on Maternal Welfare, investigating the problem of maternal death and abortions within the Province of Ontario. I would

mention also that Dr. Cannell is a past chairman of that committee. Around the corner is Dr. Kenneth Gray, who is Professor of Forensic Psychiatry at the University of Toronto, and of the Clarke Institute of Psychiatry in Toronto. I am Dr. Donald Aitken, Assistant Secretary of the Canadian Medical Association, and a general practitioner.

I will give the Committee just a brief run-down on the history of this resolution which, I believe, you all have before you. This resolution was passed at the most recent meeting of the General Council of the Canadian Medical Association in Quebec City last June. This problem has been before the General Council on many occasions—back to 1960—and I stress that this problem has been discussed very widely and very thoroughly over that seven-year period.

The resolution in its present form was brought to the General Council in 1965, and was again deferred for one year for further clarification of points in the resolution and also to enable the committee to hold further discussions with representatives of the Canadian Bar Association with whom we have attempted to form a common ground. As I stated previously, this resolution was brought forward at the 1967 meeting, and was passed by General Council after full discussion on the floor of Council.

• (11.20 a.m.)

In commenting on the resolution, I should like to point out several things to the Committee just by way of introduction. This delegation and our committee in general, were well aware of the difficulty of framing legislation in this particular area that will be acceptable to the majority of the Canadian people. It is not an easy area in which to form legislation, and we are here to try to give some expert advice, if you will, from the medical side, to help the Committee to try to form their legislation.

We are under no illusion that it is an easy job, and we are under no illusion that we will get away without some pretty deep questioning, but our motives are to help the

Committee. We are not here to press a particular point of view. We are here to express the view of the CMA, and I would say that although we all have personal opinions we would like to try to stay within the bounds of this resolution because we are representing the 20,000 Canadian doctors who are members of the CMA.

The CMA, of course, is not unanimous in their acceptance of this resolution. We have come up with what we feel is a consensus of the medical profession on this point, but we are not pretending that this is the unanimous decision of all doctors.

One thing which I would also like to point out to the Committee too is that we feel it is most important that this legislation be concomitant with changed legislation in the area of birth control and also sterilization, although I realize basically that is provincial. But I stress that we would like to see widening of the permissive legislation concerning birth control because to us this is one of the most fruitful areas of controlling the type of thing that this legislation is concerned with.

I also point out to you that in this suggested philosophical concept concerning abortion there is no compulsion anywhere and we would be very averse to seeing any compulsion affecting the patient, the doctor or the hospital. We felt that there was a necessity here to have some control mechanisms on the performing of therapeutic abortions, and you will note that in the resolution we have attempted to do this by placing the abortion itself within hospitals approved by the Canadian Council on Hospital Accreditation. This has some wide meanings, basically that it would not be the individual decision—that is to produce a therapeutic abortion—nor a decision of any two physicians. It would be a decision of a therapeutic abortion committee of an accredited hospital and almost by definition this would include one obstetrician and gynecologist who would be head of the department in that hospital.

I would like to comment on the concept of the termination board. This is a problem that was brought to you as part of the presentation of the Canadian Bar Association, and is something that we discussed very thoroughly with the Canadian Bar Association. We were opposed to the concept of the termination board because we felt it was impractical and unwieldy, and we must face the fact that in a situation where a therapeutic abortion might be indicated there is a very definite

time limit. After three months of pregnancy the risks of performing an abortion rise drastically and medically we could not condone delaying in any administrative way any more than necessary the decision whether or not to perform a therapeutic abortion.

I should also like to say—and I think I speak for most doctors—that doctors do not look forward to doing a therapeutic abortion: this is not our idea of a pleasant way to spend an afternoon. It is done because, with the best motives in the world, they feel this is the best thing to do for a particular patient. I do not think there are very many doctors who have anything but distaste for doing an abortion, and I would like you to remember that it is not because we like doing abortions that we are suggesting a broadening of the Criminal Code in this respect.

I also make reference to the recommendation here from the Canadian Medical Association to say that you will note that the section (b) which has to do with sexual offence is separated from the others. This is done because, except for this area, we feel the decision to produce a therapeutic abortion should be a medical decision. We do not feel that doctors would be comfortable or competent to judge in all cases of sexual offence, but on the other indications listed in section (a) we feel that this is a medical decision and should remain within the province of the medical profession and, as I say, within the decision area of the therapeutic abortion committee of the accredited hospital.

I think that covers what I have to say to introduce our topic. If you will direct your questions to me, at least at the start, I will try to direct them to the man who perhaps has more expertise in a particular area toward which the question is directed.

**The Chairman:** This is a very short resolution. Do you want me to read the resolution, or is it agreed that we take it as read and make it part of today's record?

**Some hon. Members:** Agreed.

(The above mentioned Resolution follows:)

Resolution No. 17

*Canadian Medical Association Meeting, Quebec, June 9th and 10th, 1967*

*Re: Change of Criminal Code re Therapeutic Abortions*

THAT the Canadian Medical Association recommend to the Minister of Justice that

the Criminal Code of Canada be amended so as to provide that an operation for the termination of pregnancy shall be lawful:

(a) If continuation of the pregnancy will endanger the life or health of the pregnant female or there is substantial risk that the child may be born with a grave mental or physical disability, and the operation is performed by a duly qualified and licensed medical practitioner, in a hospital accredited by the Canadian Council on Hospital Accreditation after approval by a Therapeutic Abortion Committee of such hospital, or

(b) Where there are reasonable grounds to believe that a sexual offence has been committed from which pregnancy has resulted.

Submitted by: Committee on Maternal Welfare.

*Nucleus:*

Dr. M. G. Tompkins, Halifax (Chairman)  
 Dr. M. M. Davis, Halifax  
 Dr. I. A. Perlin, Halifax  
 Dr. N. K. MacLennan, Sydney  
 Dr. G. H. Flight, Halifax  
 Dr. D. R. Fraser, Halifax.

*Divisional Representatives:*

Dr. C. W. Carpenter, Vancouver  
 Dr. R. H. Horner, Edmonton  
 Dr. R. H. MacPherson, Saskatoon  
 Dr. J. R. Mitchell, Winnipeg  
 Dr. D. E. Cannell, Toronto  
 Dr. L. Fortier, Montreal  
 Dr. D. F. Smith, Halifax  
 Dr. D. F. Sutherland, Saint John  
 Dr. J. K. L. Irwin, Charlottetown  
 Dr. N. Daly, St. John's

**The Chairman:** The meeting is open for questioning and, as has been done at the last few meetings, the Chair will limit everyone to a certain time so that each may get a chance to ask the questions that are uppermost in his mind.

**Mrs. Rideout:** I am sorry, I was a little late arriving and I am having a little trouble in adjusting from Bell Telephone to the terms of reference of this Committee. Dr. Aitken your resolution (a) reads:

...where there is substantial risk that the child may be born with a grave mental or physical disability ...

This is a great concern to me, doctor. How do you know; how can you decide; is there any

medical way by which it know that a foetus is not normal?

**Dr. Aitken:** Yes, there are in certain cases, and this would have to be judged on the individual case. For example, if a woman had a severe viral disease of a certain type during the first early weeks of pregnancy, we know there is a very high incidence of foetal abnormality. There are other cases; for example, certain chromosomal abnormalities which a genetic consultant can predict will come. In other words, you can predict it in terms of percentage likelihood. There is no absolute determination, but there is on a percentage basis.

**Mrs. Rideout:** In other words, if you made a decision as a medical doctor that the woman who was expecting this child would not have a normal child, it would be your decision to make whether you should abort this child or allow the pregnancy to continue?

**Dr. Aitken:** Well, I think it would be my responsibility to inform the woman of the possibility.

**Mrs. Rideout:** Who would make the decision? Would she make it, or would you?

**Dr. Aitken:** She would have to apply, depending on how she felt about this particular situation. She would have to make application for consideration to have a therapeutic abortion done if she felt that she wished this; and then it would be considered by the therapeutic abortion committee. It would not be my decision, assuming that I was the doctor in the case.

**Mrs. Rideout:** I can appreciate that it is most difficult for a doctor too, and this is my great concern. Do you or does the medical profession have figures to show in how many cases this might happen as you have illustrated, or the number of cases where you might take a foetus that was normal?

**Dr. Aitken:** May I refer this to Dr. Cannell? Perhaps he could throw some light on this.

**Dr. D. E. Cannell (Chief of Obstetrics and Gynaecology Services, Toronto General Hospital):** In german measles, throughout the first twelve weeks of pregnancy the incidence is 50 per cent—that is the over-all twelve weeks. It increases as the period of exposure to german measles gets closer to the beginning of pregnancy. In other words, there is a higher incidence at two or four weeks of

pregnancy, than there is at twelve. We have no prospective studies that are very large, but the doctor who made this discovery in Australia found that about 85 per cent of infants were affected at that stage of pregnancy. One finding has been that you cannot determine early after delivery the incidence of serious abnormality; that this increases as time goes on, and some of our cases, in relation to hearing and cardiovascular disease, have come about and been detected at four to five years after the delivery.

• (11.30 a.m.)

**Mrs. Rideout:** In other words, in cases that you have illustrated, if the mother were aware of the danger that she might have a child that is not normal, she would act on the advice of her doctor and make the decision whether she would or would not have the child.

**Dr. Cannell:** That is correct.

**Mrs. Rideout:** I would think you had to do a lot of soul searching when you included this portion in your resolution.

**Dr. Aitken:** I mentioned that it had taken considerable time to reach a consensus on this point; that is very true.

**Mrs. Rideout:** Thank you very much.

**Mr. Enns:** Although I grant that you have taken considerable time in reaching this resolution, I must still voice my concern that it is not a wide enough recommendation. I feel that to a limited extent only does it go to one of the other concerns that we as legislators have, and that is to abolish the illegal practice of abortion. I do not believe this will happen if legislation is framed in the terms of your resolution.

**Dr. Aitken:** I think that probably is true, Mr. Enns. We have no idea exactly what effect it would have. I think Dr. Low has some comment on the Swedish experience.

**Dr. Donald Low (Ontario Division, Canadian Medical Association):** I have in front of me the official report of the Swedish Institute for 1964. Until the recent legislation in Britain, they had been the most forward in changing their legislation. A great many changes have occurred. The last real change that occurred was in 1946. After this final change went into effect, the number of sanctioned abortions rose steadily each year, particularly after 1946 when the legal indications were broadened. After 1951 they began to decline and in 1955 they came almost to a

standstill. The figures are shown in this table. They claim that for the last five years they have reduced maternal mortality from criminal or illegal abortion by 50 per cent. Those are the last figures that we have.

**Mr. Enns:** Thank you. One of the reasons I perhaps expected a more forthright statement from the very respected Canadian Medical Association is the fact of your own history. Is it not true that you have dared to do things that good people sometimes feared, even the introduction of chloroform and ether? Were there not people who worried that this was against some biblical protection? Were women not expected to have pain in childbirth, and so forth? I mean, there was a wave of protest when these measures were taken by your predecessors. Even vaccinations against smallpox were feared because of the filth that was being injected into our children's bodies; and there were other righteous protestations. That is why I look to you people to come to us and say that this is another cause where you will chart a new course.

**Dr. Aitken:** Mr. Enns, you will understand that the same motivation exists in doctors as in the population in general. They have different views and different moral standards and different religious values, and we have to try to work those within the framework of medical ethics to come up with what we feel to be a workable solution.

**Mr. Enns:** That is fine. I do not want to belabour this point. I just feel that people will be calling on the medical practitioners. A woman will call and because of the limitations of the law the doctor will say to the desperate woman. "Sorry, I cannot help you"; and the doctor will know that because of the desperate convinced state of mind of that individual, an illegal abortion will be sought. To this end I say it is not adequate. Thank you.

**Mrs. MacInnis (Vancouver-Kingsway):** I think perhaps it is Dr. Low that I would like to question. Dr. Low, some time ago you made an estimate of the number of illegal abortions taking place in Canada. Would it be suitable to ask how you arrived at that estimate?

**Dr. Low:** I hope you noticed that it was only an estimate, and probably grossly in error, because no one knows the number of illegal abortions. All I can tell you from abortion returns is—for example in Ontario in 1963, 1964 and 1965 there were roughly

160,000 deliveries. Amongst those there were each year approximately 20,000 abortions. The difficulty is that abortions are classed as one type; there is no breakdown to show the number of illegal abortions, and no attempt is made to see that such abortions are reported by hospitals. Speaking personally, it seems to me that this is an important point; in any legislation that is devised there should be some method of requiring hospitals to report the number of what they consider to be illegal abortions.

**Mrs. MacInnis (Vancouver-Kingsway):** I will direct this question to you, Dr. Aitken. In your opinion would these proposed changes materially cut down the number of illegal abortions in Canada?

**Dr. Aitken:** In my personal opinion? I just do not know. We have no way of knowing what effect they will have on the illegal abortions. Personally I would question whether it would very materially cut into the number of illegal abortions.

**Mrs. MacInnis (Vancouver-Kingsway):** My next question is this: Our Committee is anxious to cut down the number of illegal abortions in this country. Is there any other way of doing it, short of fully permissive abortions on the part of women?

**Dr. Aitken:** Dr. Cannell, would you like to try that one?

**Dr. Cannell:** Mrs. MacInnis, I think it is fair to say at the moment that I and my colleague have been breaking the law for a long time with respect to contraception, and in the past year the number of cases of maternal death due to criminal abortion in Ontario have dropped from one fifth of the causes of maternal death to zero. Whether or not that is directly related to the fact that we have broken the law concerning contraception and there has been a wide use of the pill, I can not be sure. We will know more about that, say in three years, but at any rate at the moment this is true, and that is why Dr. Aitken said that in addition to the termination of pregnancy we hope that there will be some legalization and clarification of the law in respect of contraception and sterilization.

**Mrs. MacInnis (Vancouver-Kingsway):** May I ask one more question. I know all about the political and religious aspects, but is there any considerable body of medical opinion supporting the view, expressed the

other day by the Humanist Society, that it should be the responsibility of a woman, taking into account her own circumstances and those of her family, to decide whether or not an abortion should be performed?

**Dr. Aitken:** I am simply unable to answer your question. Certainly there may be many doctors who privately hold that view. No such view is held by any recognized body of doctors as an official statement.

**Mr. Forrestall:** Mr. Chairman, Mrs. MacInnis came close to a question that I want to ask. I will rephrase it, because it concerns those of us in the Committee who must combine the moral as well as the scientific point of view in our thinking about this problem. May I ask you whether, in your discussions in arriving at this—and perhaps I should thank those good doctors in Halifax for all their hard work on this—there was any approach towards a consensus on the question of whether or not, with the growing sophistication of other means of birth control, that area might possibly provide the answer and so eliminate many of the illegal abortions that the country is faced with?

**Dr. Aitken:** I should like to refer that to Dr. Tompkins. He was Chairman of the Committee at the time. Probably he can answer your question better than anyone else.

**Dr. G. Tompkins (Health & Welfare Committee, the Canadian Medical Association):** I think perhaps Dr. Cannell answered it earlier by his statistics in reference to Ontario; that the incidence of death due to illegal abortions has decreased with the increase in the availability of modern contraceptive means. I could do nothing more than support Dr. Cannell in this regard. To answer other aspects, whether liberalization of abortion laws will cut down the number of illegal abortions, again I could not say, but it is my impression that this will not take place.

**Mr. Forrestall:** You would not go so far as to say then, Doctor, that in the course of your conversations, because the entire Committee on Maternal Welfare is, or was—I am not sure whether it is still constituted or not—from Nova Scotia, there must have been many occasions when you met more or less informally to discuss this. I am concerned about our going to the extremes of the pendulum: no abortions, or permissive abortions. Somewhere we must find a compromise. I am concerned about your professional opinions,

either privately held or otherwise, whether or not once having put you people back on the right side of the law, you believed, from your own experience, from your own professional approach to a problem of this nature that this correction of the law would be just a very small part of the answer, that with the passing of time this might become almost incidental in your practice, something that might occur less and less frequently; that the doctors would find that the greater protection lay in the growing sophistication of other means of birth control.

**Dr. Tompkins:** I think you are absolutely right in that, not only as far as birth control is concerned, but as the result of the advances that are going to occur in medicine the frequency or the need for abortion on these grounds is going to get less and less. The same is true for Mrs. Rideout's remarks concerning defective children. We are going to have more sophisticated means of determining many of these things in advance. This is going to be a very, very small aspect of the over-all problem. Again, in Nova Scotia we do not have a very great problem in this regard. The bigger cities, Montreal, Quebec—

**Mr. Forrestall:** We all know Nova Scotians are better than everybody else.

**Dr. Tompkins:** Well, we have never reported a maternal death from a criminal abortion in Nova Scotia in 10 years. I think the same may apply in Newfoundland and Prince Edward Island. We did quite a bit of searching to determine the instances of therapeutic abortions in the province and these can vary widely in different localities. It can be very small in some centres; it can be very great in others.

**Dr. Aitken:** I would just mention that the CMA still feels that there is a place for a change in the abortion law, even though we are hopeful that this will not be a great number.

**Mr. Stanbury:** Mr. Chairman, I wonder if Doctor Cannell would not agree that he and his colleagues have been, technically at least, breaking the law too in connection with the abortions that they have been performing in the last few years.

**Dr. Cannell:** Quite right.

**Mr. Stanbury:** The ground of risk to the health of the pregnant female has been, in fact, a ground which has been accepted by

abortion committees quite commonly as a basis for approval of abortions in Canadian hospitals during the last few years.

**Dr. Cannell:** In certain hospitals.

• (11.50 a.m.)

**Mr. Stanbury:** Are any of the other reasons set out in your resolution also commonly used now as a basis for approval of abortions by such committees?

**Dr. Cannell:** In subclause (a), yes, but subclause (b) has only been used on very rare occasions.

**Mr. Stanbury:** It is a rare occasion when the question arises, I suppose, but to your knowledge has it occurred that pregnancy as the result of a sexual offence has been considered sufficient risk to the health of the mother to cause an abortion committee to approve the abortion?

**Dr. Cannell:** Not a therapeutic abortion for that reason but prior to the constitution of an abortion committee.

**Mr. Stanbury:** Is it then fair to say that in each of the cases mentioned in subclause (a) that Canadian doctors have indeed, on compassionate grounds, been performing abortions for some years?

**Dr. Cannell:** I think that is a fair statement.

**Mr. Stanbury:** I am glad they have but it is unfortunate that you have been exposed to criminal prosecution by so doing. I gather the main purpose of your resolution is to try to clarify the fact that it is permissible for doctors to do what they have indeed been doing and to encourage the availability of such treatment on a more equal basis in all hospitals across Canada rather than just in some, as has been the case.

**Dr. Cannell:** I would say that is correct.

**Mr. Stanbury:** I mentioned the grounds in subparagraph (a) but I think you indicated that you had performed an abortion on the grounds set out in subparagraph (b), and I suggest that indeed many other doctors have done so.

I can understand the assessment which has been given by several of you that implementation of this recommendation is not likely to have much effect on the incidence of criminal abortion. It would perhaps remove from the field of criminal abortion certain of the cases which are set out here in areas where hospi-

tals or doctors are not breaking the law, as you suggest many are, but is it not true that most criminal abortions are performed for different reasons than those set out here?

**Dr. Cannell:** It may well be that they are performed for different reasons than those stated but in reality I should think it is the total picture that is presented of a patient that decides the Committee on whether or not they will terminate them.

**Mr. Stanbury:** What I am suggesting, really, is that most criminal abortions are performed on women who simply do not want the child that they are carrying.

**Dr. Cannell:** I think probably that is true. However, on the other hand quite a fair proportion of women when they are initially confronted with a pregnancy say, "I cannot possibly tolerate this." If they get sound, good advice a fair proportion of them may be able to accept it and if they have no physical or mental reason for termination they will subsequently accept this pregnancy quite happily.

**Mr. Stanbury:** In any event I think you all seem to accept the fact that your resolution is likely to have very little effect on the incidence of criminal abortion. Is that correct?

**Dr. Cannell:** I think this is difficult to say.

**Mr. Stanbury:** Dr. Low has made quite a survey of criminal abortions and while I understand quite well that it is only an estimate, he has come up with what he feels is a realistic total of the criminal abortions performed in Canada annually.

**Dr. Aitken:** That was not criminal abortions; it was abortions of all types, including criminal abortions or miscarriages.

**Mr. Stanbury:** Would he then be in a position to tell us the proportion of all these abortions which appear to be criminal? Would he also care to estimate what specific effect a change in the law such as you are suggesting would have on the incidence of criminal abortion?

**Dr. Low:** Mr. Chairman, I will attempt to answer that question. I would like to express my personal views and not those particularly related to this resolution of the Canadian Medical Association. I think there are many methods by which illegal abortions can be worked against. Undoubtedly if the law were changed to make legal what we now believe

led us into doing some abortions where it was difficult to say that life was involved but where health was involved—and it seems to many of us that the preservation of health and the dignity of a person is practically just as important as the preservation of life—if this were made legal then doctors would be much more likely to give proper counselling to people who come asking for abortions for various reasons. Also, if they do come to the doctor he is much more likely to talk to them and if possible try his best to assess the situation, and if he thinks the situation is such that it should be taken to a therapeutic abortion committee, then he would tell this patient that he would be glad to carry it to them with her.

Further, I think there are a great many other factors which can be called into play to combat this problem of illegal abortion. For example, I think people through their associations should give more publicity to the evils of illegal abortion and they should back up the efforts of the police in trying to stamp out this problem. They should be more willing to appear in court to substantiate the evidence that is brought before that court by the police officials. Finally, I think the education of the public could be greatly furthered by the medical profession itself; not only individually but through their associations.

**The Chairman:** This is your last question.

**Mr. Stanbury:** You did not answer my question but perhaps you cannot. May I ask this question. If the law were to be changed in the way that the Humanist Fellowship of Montreal suggested to us at our last meeting, that abortions be permitted on request up to three months of pregnancy, would there still not be in every accredited hospital a therapeutic abortion committee and would doctors still not for their own purposes want to examine cases to make sure that abortion was medically indicated before they performed such abortions?

**Dr. Low:** Undoubtedly that would be the opinion of doctors as a group.

**Mr. Stanbury:** The influence of medical ethics would still operate even if the law assumed that state?

**Dr. Low:** I would think so.

**Mr. Stanbury:** Thank you

**The Chairman:** I wonder if the Committee would permit me to ask a short question on a

matter I would like to have confirmed. Following up your statements, I would like to ask Dr. Gray, who is trained in the legal as well as the medical profession, whether to his knowledge any doctor has ever been prosecuted for carrying out a therapeutic abortion?

**Dr. Kenneth Gray (Clarke Institute of Psychiatry, The Canadian Medical Association):** Not in the area with which I am familiar. If an abortion is performed by a doctor in a public hospital openly and without concealment, I have never known such a case to be prosecuted.

**The Chairman:** Thank you.

**Dr. Gray:** If I might add to my answer while listening to the discussion it seemed to me that even though this change in the legislation which Mr. Stanbury has indicated might not have an important effect on the incidence of abortion, it would, nonetheless, have an effect. The effect I am thinking of is that this therapeutic abortion committee which meets in a hospital is not composed of lawyers and they do not have a lawyer present. This is not practical, and yet they must come to a decision rather quickly. Some abortion committees have been reluctant to approve applications, even though they thought they had merit, because they were not sure of the law. It is that clarification which I suggest would be of importance.

**The Chairman:** Dr. Cannell pointed out to me that I should have added the words "in Canada" to my question. I was speaking about Canadian law.

**Dr. Gray:** Yes.

**Mr. Brand:** Mr. Chairman, may I say at the outset that this is a somewhat unusual situation. It is not often we have before us so many admitted and distinguished law-breakers. Perhaps we can change that in the future.

**Mr. Stanbury:** The biggest gathering of well-meaning criminal abortionists ever held in Canada!

**Mr. Brand:** Dr. Aitken mentioned, in response to a question, the use of chromosomal studies to detect abnormalities in the foetus. I wonder, Dr. Aitken, if you could tell the Committee how many centres in Canada are presently equipped to carry out such studies?

**Dr. Aitken:** At the moment, of course, there are very few. I know there are two and possibly three. I am not in that field so I could not give you any solid statement on that.

**Mr. Brand:** The only reason I asked that question is that I would not want you to give the wrong impression to the Committee that this was available to every physician in Canada, which of course it is not.

**Dr. Aitken:** That is very true.

**Mr. Brand:** As we are planning on changing the law, and soon we trust, is there any hope of having such studies made? As you know, they are still not 100 per cent.

**Dr. Aitken:** No. This is something that we feel will open up in the future. Of course, there has been very slow production of specialized personnel capable of doing a proper analysis on this.

**Mr. Brand:** So would you say that the majority of areas in Canada do not have this available to them?

**Dr. Aitken:** I would.

**Mr. Brand:** At the present time?

**Dr. Aitken:** That is right.

**Mr. Brand:** There is something else you did not mention. Are there methods of preventing viral diseases in pregnant females? If so, could you perhaps tell the Committee what could be done in a preventive way to avoid the sort of abnormalities you were describing?

**Dr. Aitken:** Would you like to answer that, Dr. Cannell?

**Dr. Cannell:** My understanding with regard to german measles is that this can now be done, but so far as the use of gammaglobulin in patients who had developed german measles or were exposed to them is concerned I think the consensus is that it has been useless. Now with regard to other viral diseases, I cannot say. I cannot add much to the statement made about german measles. It is the only one that I would say is of significance.

• (12:00 noon)

**Mr. Brand:** What about infectious hepatitis?

**Dr. Cannell:** I question that. At least we have not had any cases of that.

**Mr. Brand:** I could show you some, Doctor. There are some in the literature.

**Dr. Cannell:** We have not seen them.

**Mr. Brand:** You said "affected". I wonder if you could tell us the type of abnormalities that are seen in these children?

**Dr. Cannell:** With german measles?

**Mr. Brand:** Yes.

**Dr. Cannell:** The primary ones are cataracts, cardiac diseases and deafness.

**Mr. Brand:** Doctor, do you consider such abnormalities would be sufficient to warrant a therapeutic abortion?

**Dr. Cannell:** In my opinion, yes.

**Mr. Brand:** Are there methods of correcting any of these deformities presently used by doctors in this country?

**Dr. Cannell:** Certain of them, yes.

**Mr. Brand:** If these deformities could be corrected would this then justify therapeutic abortion for something that is correctible?

**Dr. Cannell:** From my personal experience, in a certain proportion of these multiple attempts at correction have been futile.

**Mr. Brand:** Have you any idea of the percentage?

**Dr. Cannell:** I am sorry.

**Mr. Brand:** Could you tell the Committee whether or not these particular abnormalities result from causes other than german measles?

**Dr. Cannell:** Certainly other virulent diseases or infections are blamed for them. I am not sure that the proof is adequate.

**Mr. Brand:** Let us take thalidomide as an example, using a drug which has caused some difficulty, producing what is called phocomelia type of abnormality. Have you, Doctor, in your experience as an obstetrician ever seen phocomelia resulting in those who have not taken thalidomide?

**Dr. Cannell:** One patient in about 5,000 to 10,000 deliveries, but not to the degree that was demonstrated by the thalidomide babies.

**Mr. Brand:** Can you give the Committee any idea of the number of children born yearly with abnormalities which could be attributable to a viral disease?

**Dr. Cannell:** No, I cannot.

**Mr. Brand:** Mr. Chairman, Dr. Low mentioned that Sweden was the most forward country. Now I presume you meant by this that you felt they had a fairly good set of abortion laws at the moment. Is this correct?

**Dr. Low:** I think on the whole this is true.

**Mr. Brand:** Do you have the figures there, Dr. Low, of the number of Swedish women who go to Poland to be aborted because it is easier there?

**Dr. Low:** No, I have not.

**Mr. Brand:** Would you agree that the figure of 20,000, yearly which is published, would be a fairly accurate one?

**Dr. Low:** I have no idea.

**Mr. Brand:** What is your opinion, Dr. Low, about the present method in Japan?

**Dr. Low:** As I understand it from reading reports which have come out, abortions have been legal since 1948 and birth control has been legal for both intrauterine devices and the pill. Apparently there are said to be about one million abortions produced per year. This is because of the population explosion.

**Mr. Brand:** You mentioned a decrease of about 50 per cent in maternal mortality in Sweden as a result of the abortion laws. Do you attribute this to changes in the abortion law?

**Dr. Low:** Partly I think.

**Mr. Brand:** To what would you attribute the change in Ontario for example, from the figures mentioned by Dr. Cannell?

**Dr. Low:** I think it is quite possible there are many factors and the pill is one of recent date. These changes are only of very recent date.

**Mr. Brand:** There is a 100 per cent improvement though without changes in the abortion law.

**Dr. Low:** Well that is a very small series, of course.

**Mr. Brand:** Do you think the deaths in Canada have declined at all because of any other reasons, perhaps improvement in the treatment of shock, haemorrhage and infection?

**Dr. Low:** Yes, indeed I do.

**Mr. Brand:** Would you take those into account in assessing the 50 per cent figure and the 100 per cent figure in Ontario? I just think these things should be brought to the attention of the Committee so they do not get the wrong impression, that it is strictly a change in the abortion law which is producing these laudable effects. This is certainly not true.

**Dr. Low:** There are many factors.

**Mr. Brand:** That is all for the moment, Mr. Chairman.

**Mr. Isabelle:** Mr. Chairman, I am going to speak in French.

*(Translation)*

In your opinion, then, the Criminal Code should be amended simply in order to legalize what doctors are already doing. Have I understood you correctly?

Now, if the intention was to legalize what is already being done, I wonder why, since there has not been any general agreement, you feel that everyone would approve of what has been put in this resolution. It says, in English:

*(English)*

... be amended so as to provide that an operation for the termination of pregnancy shall be lawful.

1. (a) If continuation of the pregnancy will endanger the life or health of the pregnant female...

*(Translation)*

Would it not be enough simply to legalize what is already being done in Canada? It seems to me that, with this resolution, you want to open the door to a great many abuses, because, in connection with abortions, by adding to the question:

*(English)*

...or there is a substantial risk that the child may be born with a grave mental or physical disability...

*(Translation)*

In my opinion, a measure of this kind can lead the way to many abuses. Do you not feel that, when your Association, together with the Canadian Bar Association, formed a committee in connection with the acceptance of a resolution submitted here by the Canadian Bar Association, there was some misunderstanding, since the Canadian Bar Association apparently could not accept part 1(a):

*(English)*

If continuation of the pregnancy will endanger the life or health of the pregnant female...

*(Translation)*

As for you, through the representatives of the joint committee, you have caused to be added the rest of the paragraph; the Canadian Bar Association wanted to insert section 2 of its own resolution in connection with the so-called "termination boards."

*(English)*

**Dr. Aitken:** We discussed this question of a termination board at some length and we disagreed with it on the grounds that I previously mentioned. We felt it was impractical, that there was a time limit here and we could not afford to deal with what was termed, I think, in Committee as interminable delay.

As far as paragraph (a) is concerned, Dr. Isabelle, there were some members of the Committee who felt that we should stop after the phrase "life or health of the pregnant female". This is true. I do not think we could agree that the rest of the paragraph leaves it open to abuse. We have tried to put a control measure in that paragraph by making it impossible for an individual physician or an individual physician and his partner to make the final decision. We want it done openly in public hospitals under the control of the chief of the department of that hospital and his committee which is appointed by the medical staff of a hospital.

*(Translation)*

• (12.10 p.m.)

**Mr. Isabelle:** What is your opinion with regard to the therapeutic committees which exist in hospitals today? First of all, are there many hospitals with therapeutic abortion committees?

*(English)*

**Dr. Tompkins:** Every accredited hospital must have a therapeutic abortion committee.

**Mr. Isabelle:** You said "must" have?

**Dr. Tompkins:** I should not have said "must" but I think they do.

**Mr. Isabelle:** What do you think of the efficiency?

**Mr. Brand:** I do not think Dr. Tompkins' last remark is correct. You will have to prove that to me.

**Dr. Tompkins:** All right, I will retract it.

**Mr. Isabelle:** Are you speaking of Ontario or of the rest of Canada?

**Dr. Tompkins:** No, I cannot speak for Ontario.

**Dr. Aitken:** It is certain that not all hospitals have therapeutic abortion committees.

**Mr. Brand:** Do you know of one Catholic hospital that has one?

**Dr. Tompkins:** Yes.

**Mr. Brand:** One?

**Dr. Tompkins:** I know of one.

(Translation)

**Mr. Isabelle:** But what do you actually think of these therapeutic committees as regards their efficiency? When a case is urgent, or when it becomes urgent, for the mother's life, does it take a certain amount of time to bring everyone together? What do you do in case like that?

(English)

**Dr. Cannell:** Speaking about the committee at the hospital at which I served, they were available at any time and usually reached a decision within 24 hours of the presentation of the case and its discussion. Mind you, most of these cases were pretty carefully screened and the individuals supporting the termination had put forward their arguments in writing so that it was reasonably rapid, I should think.

**Mr. Isabelle:** In other words, you are satisfied with the way it is going on, especially the abortion committee work?

**Dr. Cannell:** Yes, I think so.

(Translation)

**Mr. Isabelle:** I would like to know your personal opinion or that of your Association, although I do not think that you are speaking for your Association, with regard to the new Act which has just been passed in Britain. I would also like to know whether Britain, which has always been so very conservative in its ideas, is not making a mistake in accepting the social clause in the bill and proclaiming, the Abortion Act, which will lead to national suicide.

If I remember correctly, we fought in 1939 and in 1940 to halt Hitlerism, which was simply the manifestation of a kind of eugenics, a theory of a strong race, a master race. Today, does the British Act not simply allow the creation of a strong race, or if you prefer, a master race?

(English)

**Dr. Aitken:** I am speaking personally. I would certainly hesitate to say that the Parliament of Great Britain was in error in passing their law.

**Mr. Isabelle:** I did not say "in error".

**Dr. Aitken:** I am sorry; that is what came through in the translation. I do not for one second believe that the British are busy producing a master race.

**Mr. Isabelle:** They would have to amend their bill.

**Mr. Stanbury:** That is only General de Gaulle's, I think.

**The Chairman:** Perhaps we could pass to Mr. Matte while everybody still has their translation earpieces on.

(Translation)

**Mr. Matte:** In what cases can a doctor perform a legal abortion today?

(English)

**Dr. Aitken:** The Criminal Code gives one indication only and that is where the life of the mother is threatened.

(Translation)

**Mr. Matte:** Are cases of deformed children generally considered as a danger to the mother?

(English)

**Dr. Aitken:** I am sorry but did you ask, is it usually considered a danger?

**Mr. Matte:** Yes.

**Dr. Aitken:** I think it would be correct to say that it would be rare for it to be a danger in a physical sense to the mother. The danger is in the effect of bearing and having a deformed child on the mental health or the attitude of the mother.

• (12.20 p.m.)

(Translation)

**Mr. Matte:** Is it more common for mentally retarded people to have intelligent children, or the other way around?

(English)

**Dr. Aitken:** The psychologists, who are the people who deal with this area particularly, have never really convinced me that they know either way. It is suggested that all I.Q., if you will, or intelligence level tends towards the norm. I have never been able to correlate this with the fact that we have very smart and very stupid people.

**The Chairman:** I think Dr. Tompkins wanted to comment on that.

**Dr. Tompkins:** In that regard in a recent article from the Department of Michigan Medical School, a final statement is made that since the great majority of defective children are single events within the relationship and are born to normal parents, even a rather liberal attitude towards therapeutic abortion on genetic grounds could result in only a fractional decrease in the frequency of congenital defects. I think that may answer your question in a backhanded manner.

**Mr. Knowles:** Mr. Chairman, most of the questions I had in mind have been asked but I have one of two others. I would like to say that I am pleased that the Canadian Medical Association rejects the termination board that was proposed by the Canadian Bar Association. If you are not prepared to go as far as some of us want to go, more or less along the lines suggested by the Humanist Fellowship leaving the decision to the pregnant female, and if you insist that somebody else make the decision, I am glad it is a medical decision, not a legal decision.

Just as we have profited by your appearance before us today, I hope you will profit by the thoughts that have been expressed around this table to the effect that more consideration should be given to the right of the woman, particularly during the first three months of pregnancy.

My first question is this. Are you absolutely sure that the Criminal Code gives you an unquestioned right to perform an abortion when the life of the mother is at stake?

**Dr. Aitken:** No, not an unquestioned right. It has been so interpreted, I understand, if the life of the mother were threatened.

**Mr. Knowles:** But the Criminal Code itself is contradictory on this point, is it not? In other words, you really want to end your life as law breakers. You would like to get this business straightened out.

**Dr. Aitken:** We would, indeed. We would like this very much indeed. I think it would be safe to say that this is one of our main purposes. We do not like being law breakers.

**Mr. Knowles:** You have been teased about this to a certain extent but this is natural in this kind of committee. We are concerned too. We think that this kind of law breaking in 1967 should not continue. But I hope you appreciate the great concern there is in this Committee about illegal abortions. I think

that all of us or most of us, at any rate, have been a little disappointed that you have not gone further into that whole question. We shall have to. We hope you will.

I have one other question, Mr. Chairman. Perhaps I could have asked my doctor friend to my right for the information but it might as well be on the record. Does the limiting of therapeutic abortions to hospitals accredited by the Canadian Council on Hospital Accreditation have any discriminatory effect against people in out-of-the-way places? Mr. Chairman, perhaps you know the answer.

**The Chairman:** No, I do not but I was going to say for clarification of the point, if I may, that this is a point which Mr. Cowan made and I think he quoted as an example the Ottawa Civic Hospital which is not accredited. If I am mistaken in that, I apologize to him but I think this is what he said.

**Mr. Knowles:** You do not want me to include Ottawa as an out-of-the-way place? Is it discriminatory in any way to say that these things cannot take place in hospitals that do not enjoy this kind of accreditation?

**Dr. Aitken:** I suppose, sir, it is possible that in a very remote area there would not be an accredited hospital in the immediate vicinity. However, most of these things are not what one would term emergency procedures that must be done within a given time period with transportation being what it is. We feel that accredited hospitals are spread widely across the country. There are very few people who are not within a reasonable distance of a hospital which we feel would have the proper control on this procedure. We feel it is important that it be a decision of the abortion committee rather than the decision of a doctor practising alone in an isolated community.

**Mr. Knowles:** You would not mind it being the decision of two doctors, if a therapeutic abortion committee is not available? Am I pushing you too far from your CMA position?

**Dr. Aitken:** From the CMA position, sir, we would state that we would like the decision to be made by the therapeutic abortion committee to prevent any abuse that could arise from broadening the base for legalized abortions.

**Mr. Allmand:** Mr. Chairman, in the resolution there is a recommendation that abortions be made lawful if there is a substantial risk that a child may be born with a grave physi-

cal disability, and in answering questions from Dr. Brand, Dr. Cannell said that he would consider the chance of deafness in a child as a grave physical disability. I wanted to ask if most doctors would consider that so.

**Dr. Aitken:** That is very difficult to answer. Again this comes down to an individual decision of an individual case and this is one reason why we are so keen on the question being posed to a committee of doctors comprised of specialists, where it will not be the decision of one man whether this is classified as a grave disability. It will be a consensus.

**Mr. Allmand:** May I ask Dr. Cannell, since he is the one who said he considered that a grave disability, if it were considered a grave disability, what disability that might result from german measles would not be considered grave?

**Dr. Cannell:** I am not quite sure that I follow you in this regard but I would say that most disabilities from german measles are not single; they are multiple. You have to take that into consideration.

**Mr. Allmand:** Would you explain that for me?

**Dr. Cannell:** They involve the eyes, ears and heart and one that I did not mention, microcephaly; that is, an individual born with an abnormal-size skull. Taken individually, deafness may not be a serious disability but taken in conjunction with many other aspects of the complication of german measles, this is just one of them.

**Mr. Allmand:** In your definition with respect to the life and health of the pregnant female, would you include under health, mental health?

**Dr. Aitken:** Most certainly, sir.

**Mr. Allmand:** I notice that you reject what the British law had proposed, to allow abortions for socio-economic reasons and this also brings up what Dr. Morgentaler was suggesting. He felt that in the first three months of pregnancy a woman should be able to request an abortion for socio-economic reasons, for reasons of convenience, and for any reasons that she may feel necessary, and the whole problem of the unwanted child came up. Someone mentioned that Dr. Gray had psychiatric experience. I was going to ask him if he had had experience with women who had wanted an abortion and then were convinced that they should not have it. Is

there just as much psychiatric disorder among those who have the abortions as among those who have carried through and had the child?

**Dr. Gray:** The experience of any one doctor like myself, you will understand, is quite limited. I do not think I have recommended abortion, in 39 years of being licensed to practice, in more than 10 or 12 cases, so that any answer I make to your question could be misleading because the number of cases is not large enough. All I can say is that in my experience, the effect on any woman for whom an abortion was recommended has been beneficial.

**Mr. Allmand:** Have you ever had experience with women who have had illegal abortions and who have had psychiatric problems?

**Dr. Gray:** It happens that I have had no experience with that.

**Dr. Aitken:** I would just comment on what you mentioned about the British legislation and our opinion about the social clause. This is an area in which we do not feel that the doctors are competent to judge. This is a sociological condition and we are attempting to stick with the medical indications which we feel we are competent to discuss. We are no more competent necessarily than anyone else to discuss the sociological and economic factors involved.

**Mr. Allmand:** I have one final question.

**The Chairman:** Excuse me; Dr. Tompkins has a comment he wishes to make.

**Dr. Tompkins:** With regard to the psychiatric problems involved, many people feel that those who do seek illegal abortions have psychiatric problems. In that group there is a high instance of psychiatric disease; they cannot follow up normally and either make responsible decisions initially or make responsible decisions in prevention but they are just incapable of doing this. They get into this unfortunate circumstance and then they seek illegal means.

**Mr. Allmand:** Is this information that you give us the result of experience of doctors in practising?

**Dr. Tompkins:** As stated in New York City I do not have the exact reference but they have quoted a high instance in this group.

**Mr. Allmand:** This is my final question. I noticed in the newspapers recently a report about the testing of a pill in Sweden, I believe. This was a pill taken after the act of intercourse which was effective up to 30 days, in the testing that has been done so far after the supposed conception took place, in stopping the continuation of the pregnancy. Is this pill, in fact, an abortion pill; is it a birth prevention pill, or do you know anything about this particular pill? The reason for my asking this question is that it seems to me that if this pill became effective and currently distributed, it would be almost impossible to police abortions for the first two months.

**Dr. Cannell:** Morris at Yale has been working with a contraceptive taken after intercourse but I do not know that there has been anything. With all due appreciation of the press, I rely on the reports in the medical press for authentic information. There is not a significant amount there. I am not familiar with the work in Sweden.

**The Chairman:** I wonder if the Chairman might ask a few short questions. I will time myself. Has anybody any indication as to how many therapeutic abortions are performed in Canada now?

**Dr. Cannell:** I can tell you how many are done in one institution and that is about the best one can do. This is reported in the American journal. From 1954 to 1965 in one institution there were 262 therapeutic abortions.

**The Chairman:** Was that done in a state in the United States where the laws are similar to the laws in Canada?

• (12:30 p.m.)

**Dr. Cannell:** This was done in Canada.

**The Chairman:** It was published in the United States journal, but it is a Canadian experience.

**Dr. Cannell:** Yes.

**The Chairman:** That is fine. I wanted to ask—and perhaps I should ask everyone—what now is the commonest reason for the carrying out of therapeutic abortion in Canada? Is it for a physical reason, or for the reason of mental rather than physical health?

**Dr. Cannell:** Do you wish me to quote from this article?

**The Chairman:** Yes.

**Dr. Cannell:** The greatest proportion were done for psychiatric reasons; next to that was Rubella; then cardiac disease, Renal disease, malignant disease and a variety of others.

**The Chairman:** Could you give us some idea of the proportion? Do they give the proportions?

**Dr. Cannell:** Psychiatric reasons are indicated as constituting 34 per cent; german measles are 15 per cent; cardiovascular disease, 10 per cent; Renal disease, 7.6 per cent; diseases of the nervous system, 6.2 per cent; malignancies are 4.2 per cent; and the percentages go downward from there.

**The Chairman:** My last question may also be dealt with in the article, and perhaps Dr. Gray would comment on it. What are the psychiatric reasons for therapeutic abortion?

**Dr. Gray:** The existence of a well-established mental illness in the case of the mother. Now, this type of mental illness may encompass almost any variety of mental illness, but the types which most commonly provide an indication for abortion are the depressive illnesses because of the risk of suicide.

**The Chairman:** What about the presence in the past of a post-partum psychosis, which is a condition that comes on immediately after delivery?

**Dr. Gray:** Yes, this would be regarded as an indication for abortion.

**The Chairman:** Mr. Matheson.

**Mr. Matheson:** May I, as an outsider, intrude on this? I know my views will appear to be very reactionary to some, but as the father of six children, as a person who has served for 15 years as solicitor—and the only solicitor—for the Children's Aid Society in my community, and having come from a family which has quite a number of doctors and nurses on both sides, I am concerned that what appears to be an enthusiasm for health does not have very much reverence for life.

If the panel feel that to make a proper assessment of a child's mental or physical future is the proper criterion to determine whether or not that child shall live would it not be more logical to give that child a week of life after he is delivered, and put him through tests to find out what sort of chance he has for life? It is ironical that I am saying

this, because I do not believe in this sort of thing, but would that not be far better than to take a wild guess, or to have some idea that perhaps the foetus might not make it physically or mentally and that therefore it should go?

**Dr. Aitken:** All I can say to that, sir, is that we do not think so.

**Mr. Matheson:** Do you think that you can really say what that little creature has ahead of him physically, mentally, or spiritually in life?

**Dr. Aitken:** Our position really is sort of summed up in the fact that we feel the rights of the living, the actual human being at the moment—basically the mother—override consideration of the rights of a potential human being, the embryo, which will develop into a human being.

**Mr. Matheson:** Mr. Chairman, is it not a fact that what we really have, as we had for many years in the law of divorce, is a virtual disregard of the potential living in favour of those who are living? This, to me, is the nub of the matter. What the medical profession really appears to be interested in are the living, the present living—the patients—and not those who might live. Is it such a terrible thing, in the view of this panel, to go through life disabled?

**Dr. Aitken:** All I can say is that we feel that the health of the mother, the person who is living now, should receive an overriding consideration. We are not saying that we are not concerned with the life of foetuses, or of newborn children; we are more concerned with the life of the mother than with the life of a two-month-old foetus if there is going to be an undesirable effect of one upon the other.

**The Chairman:** I think Dr. Low wished to comment.

**Dr. Low:** In this connection I would just like to refer to a statement which was made by the Subcommittee of the Medical Women's Federation in Britain, in the British Medical Journal. This, I believe, has nothing to do with the Canadian medical recommendations. They recommended that there should be one general clause covering the indications for termination, and that specific indications should not be listed. They say that for those who deem the embryo to be a human being with rights the choice lies between the rights of the actual human

being, the mother, and the potential, or hypothetical, the embryo: the actual, the mother, has prior claim.

**Mr. Matheson:** That is a very sensible and helpful contribution. May I however, ask this question of the medical people, because I have had some legal experience with this sort of problem. Does the medical panel feel that a foetus that may have been conceived as a result of a sexual offense is potentially less able to cope in the physical or mental sense?

**Dr. Aitken:** No; that is not the reason for our suggesting that the pregnancy could be terminated under those conditions; we are again going back to the effect of that foetus on the mother.

**Mr. Matheson:** I believe, as Mr. Stanbury has pointed out, that the recommendation of the Canadian Medical Association limits the decision to being taken in a hospital that is accredited by the Canadian Council on Hospital Accreditation. Why were those words used rather than "licensed hospitals"? I am a governor of our local hospital which is, in fact, accredited, but only after many years of very excellent service to our community.

**Dr. Tompkins:** As Dr. Aitken tried to point out, there was a very solid stand taken by the Canadian Medical Association that some form of control should be exercised in this regard by the medical profession. In Canada we have many smaller hospitals in which, say, only one or two physicians are practising, and at times this may be an unfortunate or improper position into which to place such a small group, in that they would not have the benefits of many colleagues in their field.

For Nova Scotia we have some statistics. They are not as great as those for Ontario—we are small, in many regards—but there were 17 therapeutic abortions done in Nova Scotia in 1965. In one institution that serves approximately half of the deliveries, or half of the population of the province, there were three therapeutic abortions. In another community approximately 70 miles away, where they do 500 deliveries a year—that is about one hundredth of the population—there were, I think, eight or ten therapeutic abortions. Now, I am sure that in all probability these men made their decisions in good faith, but you cannot interpret from this that they were dealing with a population at greater risk than the main population or that they had a higher instance of emotional-congenital defects. They did not have the availability of these multiple opinions.

It is accepted, I think, in all aspects of medicine that regional, well-equipped hospitals are going to do certain aspects of medicine that the smaller community hospital is incapable of doing. I am afraid I have not explained that very well.

**Mr. Knowles:** It is the men who make the decisions, of course?

**Dr. Tompkins:** Not necessarily, sir; there are female physicians.

**Mr. Knowles:** In most cases the therapeutic abortion committees are composed of men.

**Dr. Aitken:** I would say most of them are, yes.

**Mr. Stanbury:** For the reason that most doctors are men.

**Dr. Aitken:** That is right.

**Mr. Knowles:** That is not just a facetious point. I make it quite seriously in relation to the view that some of us hold that the woman, certainly in the first three months, should have a little more say than I think we have yet been willing to accord to her. This is a man's world in which the man makes the decision about abortion.

**The Chairman:** Perhaps we might now go through the list in the same order as before. There may be members who seek to ask further questions, Mrs. Rideout.

**Mrs. Rideout:** Dr. Harley, I hate to ask the indulgence of these gentlemen again, but I have one little question on an aspect on which you possibly would prefer not to express your opinion. This Committee has made a study and recommended to Parliament changes in the Criminal Code regarding the sale of contraceptives. We now have the hearings on the abortion law. Perhaps I am being sentimental and a female—if I am I use it as a weakness—but what do we do now? What will be the effect of these changes on young couples who cannot have children? In other words, will there be babies for adoption? What are we doing? What is the prospect for the future? Are we going to be so protective that there will never be any children for adoption?

**Dr. Aitken:** I think that would be a very unlikely situation, Mrs. Rideout.

**Mrs. Rideout:** I am just wondering. I cannot help but worry about that sometimes.

**Mr. Stanbury:** It is hardly a social purpose for governments to ensure that there is production from baby farmers for people who want to adopt.

**Mrs. Rideout:** I admit it is a very personal and emotional question.

**An hon. Member:** I think it is very important and practical.

**Mrs. Rideout:** I agree.

**The Chairman:** Mr. Enns.

• (12.40 p.m.)

**Mr. Enns:** I have no question. I merely wish to say that I doubt that the market of adoptable babies will be severely affected by any legislation we pass.

**The Chairman:** Mrs. MacInnis.

**Mrs. MacInnis (Vancouver-Kingsway):** I know that Dr. Aitken said that the Medical Association had no more right than anybody else to express opinions about the British laws, but I do think that as individuals they must have a right, as has anybody else, to express opinions. I am most anxious to find out whether any doctor on this panel really thinks that adoption of the British social clause should be seriously considered. There is the factor that many women, who are mothers with three or four children already, live in very bad and cramped housing conditions and are of very low economic standing.

I have been reading quite a number of case histories from Britain and France—and I know the same situation exists in some of our own Canadian cities—where women already have three or four children and do not have the means of assuring a good livelihood or the possibility of education for further children. Those women are often faced with the prospect that those children will continue to live in subsidized housing in a poverty situation indefinitely, and will never in their lives be able to get out of the relief category. Have any of the medical people thought about this social clause and whether it will have a good or bad effect in Britain?

**Dr. Aitken:** As you say, this would have to be a very, very, personal opinion.

**Mrs. MacInnis (Vancouver-Kingsway):** I understand that.

**Dr. Aitken:** With that understanding, did you wish to poll the doctors here?

**Mrs. MacInnis (Vancouver-Kingsway):** I would be glad to, if it would not be pressur-

ing them too much; because I am of the opinion that we are just touching the top of the problem. I believe we are barely touching the problem. I am sure that a great many women are desperately concerned beyond a certain number of children, and it is a question whether they are doing the right thing, morally, to go on having more and more when it means that those babies will be deprived of the kind of living and the sort of education to which they are entitled.

**Dr. Aitken:** I could just ask the doctors if they would care to make a very personal observation.

**Mrs. MacInnis (Vancouver-Kingsway):** Well, if anyone would, I would be pleased.

**Dr. Cannell:** Mrs. MacInnis, I think that the individual not only has some right to relief under those circumstances but they also have some responsibility not to get into those circumstances. I would prefer to do what we can to prevent this action rather than terminate pregnancy for those indications.

**Mrs. MacInnis (Vancouver-Kingsway):** Then you would not be too much in sympathy with the British bill...

**Dr. Cannell:** I am not too greatly in sympathy with it for one very good reason, I think. As obstetricians, we are usually the individuals who have to terminate pregnancies. As was pointed out earlier, it is extremely distasteful and not lacking in complications. Of the series that I reported here, there were serious complications in approximately 10 per cent of those patients and some patients died. That is one point. The other point is this. In Britain patients are now waiting some six to eighteen months for hospital beds. If this is abortion, on demand, then there certainly will not be much room for anything else but abortions in the British hospitals.

**Dr. Tompkins:** I could not support Dr. Cannell more in his sense of responsibility in going hand in hand with the problem of education. I do not think we can take the experience of Sweden, England, or even France and transpose it to Canada. Because of our culture and environment, I think we have to learn from our own experience and draw on the experience of our own sociologists here. I would think the main thing is education and the correction of the social

defects present rather than aborting for the reasons mentioned. Again, it is entirely personal.

**Dr. Low:** Mrs. MacInnis, I personally do not hold with abortion upon request. I do think that prevention is better than abortion such as the repeal of section 150, the use of the pill in properly selected cases, and I would hope the legalization of sterilization procedures which, in many instances, are much more easily performed than the use of other measures. Yet I believe that one has to individualize. A therapeutic abortion committee here in Canada might possibly have to deal with a situation where socio-economic factors might be the tip-off as to whether it would agree to a therapeutic abortion.

**Dr. Gray:** The only thing I can add, Mr. Chairman, is that some of the cases that have been outlined would affect the health of the mother, certainly her mental health, and might be justified on those grounds indirectly. Otherwise, I agree with what my colleagues have said.

(Translation)

**The Chairman:** Mr. Simard, do you have a question?

**Mr. Simard:** If I may, Mr. Chairman, I will ask my question in French. Do you doctors know with absolute certainty when a foetus becomes a living creature?

(English)

**Dr. Aitken:** No. It depends on your definition of when it has life. Do you mean when it has life as a human being, when the cells are alive? I am not quite sure how to answer your question.

(Translation)

• (12:50 p.m.)

**Mr. Simard:** You would like to see abortions made legal during the first three months of pregnancy?

**Dr. Aitken:** Actually, we have not mentioned any time limit in our resolution. We have suggested that the three-month period is the safest time to perform any operative intervention that is going to be done, on medical grounds.

**Mr. Forrestall:** I do not have any specific questions, Mr. Chairman, but perhaps the Maternal Welfare Committee and, more particularly, Dr. Tompkins could comment on what I have to say.

I am concerned whether or not there was a preoccupation with the ordering of life. This arises from some comments that were made although not necessarily implied in your resolution. Has that Committee met from time to time, and as you met with the regional or divisional representatives on this particular Committee did you stick to purely scientific concepts? Did you at any point bring into your discussions, based either on your own several experiences or, through invitation, those people in theological fields, the moral question that is involved?

**Dr. Tompkins:** I am sure morality did not enter into this specifically but I am sure that each individual on the Committee had to make his decisions within his own moral environment.

**Mr. Forrestall:** I simply want to thank the Committee and, particularly, to say, after the publicity that Halifax and Toronto have had in the not-too-distant past, that it is nice to see them at least able to co-operate in some spheres of social endeavour. Thank you very, very much.

**The Chairman:** I was just going to comment on what Dr. Tompkins said, that they had not had much trouble in Halifax with this problem; yet five of the six members of the nucleus committee were from Halifax.

**Mr. Forrestall:** If you want something done, ask a Nova Scotian to do it.

**Mr. Stanbury:** Mr. Chairman, could the panel tell us whether a husband's consent is normally required as part of the doctor's own precautions in dealing with these cases?

**Dr. Aitken:** I think that holds true in dealing with any operative procedure done on a patient. There are some cases where this might not hold true, but the consent of the husband to any operative procedure on the wife is normally required.

**Mr. Stanbury:** I would have thought so.

**Dr. Aitken:** It is commonly done.

**Dr. Gray:** No, I do not agree with that, Mr. Chairman.

**The Chairman:** Would the doctors like to comment? Could we get a consensus?

**Dr. Gray:** From lecturing to the medical students at the University of Toronto on this very topic, it has certainly been my opinion, and I recorded it in writing, that no longer in

this country is the consent of a husband required in the case of any operation on his wife.

**Mr. Stanbury:** I do not know of any higher authority on this subject than Dr. Gray so I accept that. Is it then not a common requirement in the experience of the panel?

**Dr. Low:** Mr. Chairman, may I say that in my experience we have, as a rule, tried to get the written consent of the husband. However, sometimes the husband is not available. I think that that has been the general rule of practice, although I believe what Dr. Gray has said is not considered obligatory.

**The Chairman:** Could I ask a question? Is it not so that certain doctors would not do a therapeutic abortion unless they had the husband's consent in writing?

**Dr. Low:** I think that is true.

**Mr. Stanbury:** If it is the general practice to seek the husband's consent, if he is available, then this would continue under any widening of the law and you, as doctors, regardless of the law, would feel it your obligation to seek out the consent of the husband when an abortion was requested by a woman.

**Dr. Low:** Yes.

**Mr. Matheson:** Is it not fairly common in cases where a very serious psychological problem has developed, which is known to the physician and maybe to the woman's lawyer, because the child is not the child of the husband, that in remorse and in distress the wife goes to the only person she can trust—perhaps her physician or her lawyer friend—and in some instances a child conceived in adultery is aborted to preserve, as the woman sees it, her own home?

**Dr. Aitken:** I would certainly not think it was a common situation, sir.

**Dr. Low:** I could cite one situation in my practice which illustrates this point that you bring up. This was during the war. A very fine English lady arrived in Canada and lived here for about four years with her children. During that time she, unfortunately, got involved with a man in this country and became pregnant. She came to see me and we discussed this matter very fully. I finally persuaded her to go through with this pregnancy. The baby was born in this country—it was a lovely child—and after the war was over she returned to England. However,

before she returned she discussed with me how she was going to inform her husband. I simply advised her the only thing to do was to tell him, which she did. I believe a reconciliation has occurred. The last word I have is that they are living happily together. That is the only instance I have ever had of that type of thing.

**Mr. Stanbury:** Mr. Chairman, that is all the questions I have. I just want to add my thanks to the distinguished gentlemen for coming and helping us so much, as I think they have.

**Mr. Brand:** I have just a couple of brief questions. I would like to clarify some of Dr. Cannell's quotes from that article. I think they are rather important. He did mention, in passing, that there were 10 per cent serious complications in the therapeutic abortions carried out and that some died. What percentage died?

**Dr. Cannell:** One died.

**Mr. Brand:** And is it correct that there were over 200 abortions carried out?

**The Chairman:** Perhaps at this point I should ask Dr. Cannell to let us reproduce this and then I will see that every member of the Committee gets a copy.

**Mr. Brand:** I think we should. I think it should be on the record anyway. How many deliveries were there in that particular hospital, and what percentage does the 220 account for?

**Dr. Cannell:** There were 45,185.

**Mr. Brand:** What percentage would that be?

• (1:00 p.m.)

**Dr. Cannell:** It is a high level when compared with some others with the exception of Mount Sinai in New York. It is one in 172 term deliveries.

**Mr. Brand:** That is quite a large percentage. As you said, one of these died. There were some serious complications. Were these permanent complications or were they taken care of?

**Dr. Cannell:** The patient recovered. The 23 major complications included four perforations of the uterus, three in which there was intestinal obstruction and septicaemia.

**Mr. Brand:** And these were abortions carried out under the best possible circum-

stances in an accredited hospital, is that correct?

**Dr. Cannell:** Yes. Do not misunderstand me, these were not all dilatations and curettages. This is not quite as simple a procedure.

**Mr. Brand:** I see. This is the sort of thing I wanted to correct so that the Committee does not get the wrong impression. Some of them were hysterotomies, I presume?

**Dr. Cannell:** Some were hysterotomies and some were hysterectomies, because some of these patients had carcinoma.

**Mr. Brand:** For the benefit of the Committee, Mr. Chairman, perhaps we had better explain that one of these terms refers to actually opening the uterus in an operative fashion and the other refers to removing it.

**The Chairman:** And carcinoma is cancer?

**Mr. Brand:** Yes. A question which is related to this is whether you have any idea what percentage of women died as a result of illegal abortions in Ontario?

**Dr. Cannell:** I can only quote figures supplied by Ontario Maternal Welfare which, as I say, were approximately 20 per cent in about three years.

**Mr. Brand:** Dr. Low mentioned that prevention is better than cure. I do not wish to be offensive by this statement but I am curious why we have a committee from the CMA which is packed with the aborter rather than the preventer? In other words, why do you not have pediatricians or geneticists or heart surgeons here, some of those doctors who correct these abnormalities? Why do you merely have the people who would be involved in performing abortions?

**Dr. Cannell:** Probably because we are more conservative than any other group in the profession.

**Mr. Brand:** I am pleased to hear that the conservatives are on, whether it is with a small or large "c"! However, from the viewpoint of informing the Committee do you not think it would be valuable for them to hear from those who are experts in their own particular field with regard to what can be done to correct abnormalities as a result of genetic malformations and things of this nature?

**Dr. Aitken:** It might well be that we felt the prime area of interest and responsibility

was in the area of obstetrics and gynaecology. We have a psychiatrist present and I am a general practitioner. We had hoped that we might tend to balance the situation. However, I would take exception to the suggestion that obstetricians are not concerned with prevention. I would expect they do a large amount of prevention as well.

**Mr. Brand:** Yes. I was not thinking of that so much as those pediatricians who are perhaps familiar with the results and have to look after these people, or those concerned with public health who are more familiar with the methods of preventing various viral diseases. That is all, Mr. Chairman.

**The Chairman:** I was going to say that there is a geneticist from Montreal who will be appearing before the Committee and it was the opinion of the Chairman that this should be done by way of a separate visit rather than having him here on the same day as the Canadian Medical Association.

It is agreed that we print the article which Dr. Cannell has referred to as an appendix to today's proceedings if permission is granted to do so by the Publisher?

**Some hon. Members:** Agreed.

**Mr. Allmand:** Dr. Cannell, you said that you put no time limit on this resolution. In other words, there is no period in which the abortion would be allowed or not allowed, but you said in general terms that it could only safely be done up to the third month. Would a therapeutic abortion committee agree to an abortion after the third month? How common is that? What would be the

latest date that they would generally permit an abortion?

**Dr. Cannell:** I think you would be on better ground if you spoke about "termination of pregnancy". For medical reasons termination of pregnancy after the third month has very little effect on the condition for which it is being done with the possible exception of a psychiatric indication. Generally speaking, we would do it relatively infrequently. Does that answer your question?

**Mr. Allmand:** Partly. Even for psychiatric reasons, how late do you see a therapeutic abortion committee allowing a termination of a pregnancy?

**Dr. Cannell:** I cannot say definitely. Take the case of a patient with heart disease. It is more dangerous to terminate that pregnancy in the middle trimester, that is, the second three months, than it is to let it carry on. All of these have primarily been medical conditions. For instance, you would not do this when the baby was viable, that is, the first 28 or 30 weeks, you would only do that in the rare chance that you might save that baby's life.

**Mr. Allmand:** I see. So you would rarely do it when the baby would be viable?

**Dr. Cannell:** Rarely.

**The Chairman:** If there are no other questions, I would like to thank the representatives of the Canadian Medical Association for appearing before us today and contributing to our Committee meeting. Thank you very much, gentlemen.

HOUSE OF COMMONS

Second Session—Twenty-seventh Parliament  
1967

STANDING COMMITTEE

ON

**HEALTH AND WELFARE**

*Chairman:* Mr. HARRY C. HARLEY

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 5



THURSDAY, NOVEMBER 2, 1967

Respecting the subject-matter of

- Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

WITNESSES:

*Representing the Association for the Modernization of Canadian Abortion  
Laws (AMCAL):* Mrs. Lore (Sylvio) Perron, President; Mrs. Sharon  
Wakelam, R.N., both of Ottawa.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1967

STANDING COMMITTEE  
ON

HEALTH AND WELFARE

*Chairman:* Mr. Harry C. Harley

*Vice-Chairman:* Mr. Gaston Isabelle

and

Mr. Allmand	Mr. Forrestall	Mr. O'Keefe
Mr. Ballard	Mr. Howe	Mr. Orange
Mr. Brand	(Wellington-Huron)	Mrs. Rideout
Mr. Brown	Mr. Knowles	Mr. Rochon
Mr. Cameron ( <i>High Park</i> )	Mr. MacDonald ( <i>Prince</i> )	Mr. Rock
Mr. Chatterton	Mrs. MacInnis	Mr. Rynard
Mr. Cowan	(Vancouver-Kingsway)	Mr. Simard
Mr. Enns	Mr. Matte	Mr. Stanbury—(24).

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

*Note:* Mr. Allmand replaced Mr. Laverdière on November 1st.

ORDER OF REFERENCE

WEDNESDAY, November 1, 1967.

*Ordered*,—That the name of Mr. Allmand be substituted for that of Mr. Laverdière on the Standing Committee on Health and Welfare.

*Attest.*

ALISTAIR FRASER

*The Clerk of the House of Commons.*



## MINUTES OF PROCEEDINGS

THURSDAY, November 2, 1967.

(6)

The Standing Committee on Health and Welfare met this day at 11.20 o'clock a.m., the Chairman, Mr. Harry C. Harley, presiding.

*Members present:* Mrs. MacInnis, Messrs. Ballard, Brand, Cowan, Harley, Howe (*Wellington-Huron*), Isabelle, Knowles, Matte, Rochon, Rock, Rynard, Stanbury—(13).

*Other members present:* Mr. Macaluso, Mr. Prittie.

*In attendance: Representing the Association for the Modernization of Canadian Abortion Laws (AMCAL):* Mrs. Lore Perron, President; Mrs. Sharon Wakelam, R.N., both of Ottawa.

The Committee resumed consideration of the subject matter of Bills C-122, C-123 and C-136.

The Chairman referred to representations addressed to the Committee in the form of letters. It was agreed that they be filed in the Clerk's office for consultation by the Members.

It was agreed to leave to the discretion of the Chairman the disposition to be made of briefs received from groups or individuals who do not wish to appear.

The question of individuals who expressed the desire to appear without submitting a written brief was referred to the Subcommittee on Agenda and Procedure.

Also agreed that the closing date for receiving requests to present briefs be the 1st of December.

The Chairman introduced Mrs. Perron who introduced Mrs. Wakelam and made a preliminary statement.

*Agreed,—*That the submission of the Association for the Modernization of Canadian Abortion Laws (AMCAL) and the appendix thereto be printed as an appendix to this day's proceedings. (*See appendix "E"*).

Mrs. Wakelam made a short statement.

Mrs. Perron was questioned.

The questioning concluded, the Chairman thanked the witnesses and at 1 o'clock p.m., the Committee adjourned to 11 o'clock a.m., Tuesday, November 7th, to receive the submission of The Emergency Organization for the Defence of Unborn Children.

Gabrielle Savard,  
*Clerk of the Committee.*



## EVIDENCE

*(Recorded By Electronic Apparatus)*

**Thursday, November 2, 1967.**

● (11:20 a.m.)

**The Chairman:** I see a quorum. Ladies and gentlemen, we will now begin our meeting.

Before we proceed to the examination of today's witnesses may I say that both the Clerk and I have received fairly voluminous correspondence concerning the hearings dealing with the question of abortion. There is some question how we should deal with this. Some members of the Committee might like to see all the correspondence and others might think it should become part of the record. There have been some written briefs sent to us for the members of the Committee, but these people do not want to appear in person. On the other hand, I have had calls from people who would like to appear before the Committee to discuss their personal convictions but not want to present a brief.

As far as the correspondence is concerned, my own feeling is that it will be too voluminous to make part of our record. I suggest that I leave the correspondence with the Clerk of the Committee and then anyone wishing to see it may do so just by contacting Miss Savard. Does that sound reasonable to you?

**Some hon. Members:** Agreed.

**The Chairman:** In respect of those written briefs where the people do not want to appear, I think they should become part of our record, provided they are properly written and documented. What does everyone think about that?

**Mr. Knowles:** That is something we can leave in your hands.

**The Chairman:** All right.

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, have you set any deadlines for the receiving of briefs?

**The Chairman:** No, not really, but we have witnesses right up until December 19 with only a few gaps between.

**Mrs. MacInnis (Vancouver-Kingsway):** It seems to me from what I have heard that it would be a good idea to publicize a date after which no more briefs would be received so that we would know when we would be finished.

**The Chairman:** I suggest the date of December 1, if everyone agrees. That would give another 30 days to those who wish to present briefs, or at least give an indication that they wish to do so. As I have said, I think we have enough witnesses now to keep us, going steadily until approximately December 19.

**Mr. Cowan:** Mr. Chairman, may I ask that Mrs. MacInnis use the expression "closing date" rather than "deadline"? We are going to have enough dead babies around here by the time this Committee gets through without using that word too often.

**Mrs. MacInnis (Vancouver-Kingsway):** I thought that word would appeal to a former newspaperman.

**Mr. Cowan:** "Closing date" would be better.

**The Chairman:** Does my suggestion meet with your approval?

**Some hon. Members:** Agreed.

**The Chairman:** Does this time limit suit everyone? If so, we will give them until December 1 to be heard from. However, this does not necessarily close off the date of hearing briefs. What is your opinion on persons who want to appear before the Committee but do not want to submit a brief?

**Mr. Knowles:** Do they represent organizations?

**The Chairman:** Some of the ones that I have spoken to perhaps represent the other side of the coin. I am thinking of a doctor for instance, who wishes to appear before the Committee to express views that are somewhat in opposition to the stand of The Canadian Medical Association.

**Mr. Brand:** I think, in all fairness, Mr. Chairman, we must give opportunity for dissent as well as for accord.

**The Chairman:** As I said, these people would appear. Perhaps it would be possible to have two or three of these people at one meeting and try to save time in that way.

**Mr. Brand:** Certainly. I do not care if they present a brief because I have too many briefs now.

**Mr. Ballard:** I do not want to unduly prolong the hearings but I do remember that when we were hearing briefs in connection with birth control, I think it was, that two or three well respected organizations in Canada said that they were unable to present their briefs within the time limit set because they had not had approval of their briefs by their associations. I just wonder in that context, whether the deadline approximately 30 days from now would be too soon. It would cut off this particular type of association from presenting a brief.

**The Chairman:** Yes. When I was talking about a deadline I was not suggesting that they must have a brief ready by that date, but that they should at least signify to the Committee that they want to appear at a later date. So if they would write and say, "Well, we are not quite ready yet, but we would like to appear eventually," then, we could take that into consideration.

**Mr. Ballard:** Well with that proviso I would be agreeable to November 30.

**The Chairman:** Fine. Will you then leave the calling of witnesses to the discretion of the Chair and the Steering Committee?

**Some hon. Members:** Agreed.

**The Chairman:** I will now introduce Mrs. Perron, President of The Association for the Modernization of Canadian Abortion Laws. Mrs. Perron, will you introduce the other lady with you.

**Mrs. Lore Perron (President, The Association for the Modernization of Canadian Abortion Laws):** We have with us Mrs. Sharon Wakelam who is going to present her own particular case history.

First of all, I would like to tell you that we are a national organization and that we consist of a good cross-section of Canadian societies. Rather than making a lengthy speech we have set up several short statements to present to this Committee.

Although the law says that we may not procure an abortion, many women who lead law-abiding lives have to resort to illegal practices, thereby breaking the law. If a woman has definitely decided she must have an abortion she will go to any length to obtain one regardless of the law. We are forcing women to bear children but we cannot force them to want, love or accept these children. Because men feel that women are responsible and intelligent enough to bear and rear their children we feel that women are capable enough to decide when they cannot have these children.

Although we are considering everyone, for the women who can afford an illegal abortion there are more openings to obtain one; they can pay high prices to a qualified medical practitioner or make a trip to Japan, perhaps. It is the lower income group who mainly resort to the back-alley abortionist or the do-it-yourself method.

The question of whether or not an abortion should be performed must be a medical one. No doctor or hospital should have the right to put religion or any other considerations before the life of the mother. We know of both doctors and hospitals where this has happened.

We wish that the members of this Committee would get some of these distressing phone calls and mail that we receive. To illustrate this I thought I would read a few of these to you.

First of all I would like to read one letter to you which we received from a lady in British Columbia. I thought this might give you a good idea how possibly the average Canadian woman feels about this.

Please find enclosed one dollar to show my faith in your proposals for changes in the Federal Legislation.

I have discussed this thoroughly with three women whom I am closely acquainted. One is Roman Catholic, one is the Mother of a Mongoloid (which pregnancy showed a weak foetus for the first 2½ months), and one the mother of seven, I have two children.

In our hearts, we heartily endorse your proposed changes as listed in the *Victoria Daily Times*, Oct. 6, 1967.

We are all now, or have been women with professional occupations.

One of our mutually agreed thoughts was the reduction in the welfare of the whole family unit, husband and other children, when an unplanned pregnancy

looms on the horizon, and sometimes occurs. Women, throughout history have been relegated to a pretty low status—in their constant fear—sometimes several times a year, of another pregnancy.

We have all agreed, we've lived through this fear many times, without our best friend, even, knowing. Your goals, in the eyes and minds of intelligent, compassionate people *should* be attainable, they are honest and realistic.

• (11:30 a.m.)

I have a copy of another letter here, which we received from a nun who is with a Roman Catholic order. I have omitted a few paragraphs because they were not pertinent.

I have the following reasons for asking for membership in your organization.

1. As a teenager I worked as a nurses' aid in an OB department and saw a great deal. 2. Later, after becoming a nurse, I worked in an observation ward for mental patients in a state hospital where I again saw a great deal more. I am enclosing my membership fee. I am especially interested in abortion for rape, and mental cases.

She is now a member of our organization.

I thought you might be interested in hearing to what length women do go, so I have brought along a few of the true case histories that we have on file. The first one is a Mrs. X, who arrived in the operating room as an emergency caesarian section. She was in strong labour but, on internal examination, the doctor could not detect a cervix, let alone any dilation of the cervix. After the healthy, normal baby was delivered, we followed through with the hysterectomy. Once the uterus was extracted and examined it was discovered that the cervix had been burned off and that nothing but scar tissue remained. Although there was no opening left into the uterus the doctor knew that there must have been one at one time because this woman had two other children and they had been delivered normally. It was discovered after she recovered from surgery that she had tried to abort herself with an acid solution but she was not successful in losing the baby, and the only thing she did was burn off the cervix.

I could give you many more of these even more gruesome, possibly, than this, but I would like to say that we feel that in order to lower the illegal abortion rate, first of all we need a concentrated birth control pro-

gram, long-range sex education, family planning education in the schools, freedom of choice regarding sterilization, and of course abortion law reform.

I would like to add that if our legislators find this issue difficult to decide, why not let the women of childbearing age, or the women who already have children, vote on this? Thank you.

**Mrs. Sharon Wakelam (R.N. Ottawa):** I have been asked to come here today to tell you how a mother feels who has a child with a hereditary disease. I have a six-year-old daughter who has asthma and eczema, but these are relatively minor diseases in this day and age. However, within the last year the doctor has diagnosed her skin condition Ehlers Danlos syndrome.

I want to tell you something about the disease and how it feels to cope with it. This is a disease that is sometimes referred to as hyperelastica. Our family doctor referred to it as the rubber ladies which you often see at the fair. Approximately every two months during the last few years we have had to be prepared to take the child to the emergency. In a simple fall her skin is lacerated, sometimes it can be sutured and sometimes it has to be debrided. At this particular point her skin is a mass of scars and hematomas. This will in all likelihood continue throughout the rest of her life. A month ago she was presented at a dermatologists' conference and seen by 41 doctors. They were of the opinion that nothing could be done. I have written to two doctors, one at MIT and one at Cornell University, and they both say that nothing can be done. They say perhaps when she becomes around 20 there will be less incidence of injury.

• (11:35 a.m.)

These are some of the things you can understand, but I think perhaps the thing that I have difficulty in coping with is explaining to her the things that she cannot do, because she is a very active child. She loves to run and play; she runs, she falls, and it is another trip to the emergency. The other children at school—she is just in grade 1—have started to call her "Lumpy" and "Bumpy". How do you explain this to her; that they should not do this; it does not make her feel better. Other adults look at her and say, "poor child". They look at me and say, "How do you stand it?" I think it has been particularly hard for me as a mother, because I think in the future there does not seem to

be much hope that she will ever be able to bear children of her own. That is all, thank you.

**The Chairman:** Thank you very much, ladies.

**Mr. Knowles:** Mr. Chairman, were arrangements made earlier to put the full brief of the organization into our record?

**The Chairman:** I am sorry, yes. Is it agreed that the brief, which has not been read, and the appendix to the brief should become part of today's permanent record?

**Some hon. Members:** Agreed.

**Mr. Ballard:** Mr. Chairman, it is rather difficult to put questions to people who express their personal experiences. I think this is the type of evidence that is useful to this Committee. The verbal briefs presented by these two ladies have been most useful.

One suggestion made was to let the young women of child-bearing age decide whether or not abortion should be legalized in the country. I would like the ladies to expand on this. How would you go about getting a fair expression of opinion from this age group in order to determine their stand on this particular issue? Would you have a plebiscite, and how would you carry out this plebiscite? This sounds like a good suggestion. I want to know how you would go about doing it.

**Mrs. Perron:** I do not know very much about this, but could we not put it on the ballots when the next election comes up, for example?

**Mr. Ballard:** You are actually suggesting then that the ballot would be restricted to women of a particular age group. How would we establish in this day and age whether the woman is of childbearing age?

**Mrs. Perron:** I also said, women who have had children. They are included in this: women of childbearing age, as well as women who have had children.

**Mr. Ballard:** I suppose the mechanics could be worked out. But when you make a statement like that do you in your presentation exclude the possibility of unmarried women, women who have not as yet had children, from the benefits of changing the abortion laws? I am thinking of a 16 or 18-year-old girl who has not been subject to rape, for example.

**Mrs. Perron:** We anticipate that all of these will become mothers or will get to the age where they will get married. We are considering the unmarried mothers. I have come across a quotation which I found explained so nicely what the attitude of society is towards an unmarried mother. It seems society says that if you have the abortion you will go to hell but if you have the child we will make it hellish for both of you. I think this just clearly sums up how society feels about unmarried mothers. I would say the larger part of society still feels this way. I think this is something that should definitely be changed. Rather than chastising these girls or women I think we should help them and encourage them to keep their children. But you see, there is a stigma attached to this child; it is an illegitimate child. As far as I am concerned there should be no such thing. I would admire a woman for keeping her child, even if she is not married, and I think we should assist such women in every way we possibly can. I am sure that many of these women would like to keep their children but they dare not do so at the moment because of society's attitude.

• (11:40 a.m.)

**Mr. Ballard:** Did I understand correctly when you were making your presentation, that you believe the sole judgment on whether or not an abortion should take place should rest entirely in the hands of the medical doctors? The reason I put this question to you is that a while ago we had a brief from the Canadian Bar Association which suggested that a committee of possibly six or seven men be set up as a panel to judge whether or not a woman should have an abortion and it was suggested at that time that women should be the judges. I am wondering if your Association would rather leave the decision strictly to the members of the legal profession...

**Mrs. Perron:** No.

**Mr. Ballard:** ...one or more doctors, or would you rather have a panel of male judges sit on the case. Or would you rather have a panel of female judges sit on the case.

**Mrs. Perron:** I think we made it quite clear in our brief that we feel that we do not want to see termination boards set up because there would be a lot of friction and a lot of red tape involved. By the time they dealt with the case, the woman may have had the child. We feel it is quite sufficient to have the

attending doctor plus one other opinion, say two doctors making the final decision.

**Mr. Brand:** In respect of asking women of childbearing age to decide, are you thinking of giving the vote to 12-year-olds? You do realize, of course, that at a very young age some girls are capable of bearing children.

**Mrs. Perron:** Which they should not, I think.

**Mr. Brand:** What do you propose to do with that? It depends on which country you are in, does it not?

**Mrs. Perron:** Yes.

**Mr. Brand:** How do you propose to handle them. Do you think they should have a right to decide too?

**Mrs. Perron:** No, of course not. Their decisions are being made for them by their parents, who are responsible for them because they are minors.

**Mr. Brand:** At what age do you think they should be allowed to decide, at 21 years?

**Mrs. Perron:** Yes, when they become of age, I think. This would be reasonable.

**Mr. Brand:** How about those working 19- and 20-year-olds, who have been supporting themselves for years and get into the unfortunate position of becoming pregnant. What are you going to do with them?

**Mrs. Perron:** If there is no other person available I think they should be able to decide themselves, if they are mature enough.

**Mr. Brand:** Who decides that?

**Mrs. Perron:** They will also go, of course, to their doctor, and if the doctor feels there is a reason that they should have a therapeutic abortion then in my opinion, there should not be any problem.

**Mr. Brand:** I must say, Mrs. Perron, I have a little difficulty understanding exactly which position you take in your brief. On line 24 of page 4 you describe your brief very adequately in referring to semantic intricacies. I had quite a time winding my way through the various statements you have in the brief; some of them are a little confusing, to say the least.

I notice somewhere in your brief that you do support Mr. Wahn's Bill, which is one of those we are studying in this Committee. You

felt that Mr. Wahn's brief would be a very good one to support.

**Mrs. Perron:** We actually support every brief submitted that has requested abortion law reform.

**Mr. Brand:** But I have difficulty in understanding just how far you would like to see this go. Would you like completely permissive abortion? I get that impression from some parts of the brief. Then you say you are very pleased to see the Criminal Code amended in the manner provided by Mr. Wahn, which of course does not go as far as permissive abortion. I would like to know just how your society stands. What exactly would you like to see, in simple terms?

**Mrs. Perron:** We have stated our three points and have tried to explain them as well as we could. If you want a personal opinion, as far as I am concerned and many of our members, we feel that the final decision, no matter what the reason, should be left up to the woman because I think that every individual woman knows her own limitation. Whereas one woman can put up with ten children and is capable of taking care of them, another cannot do this. This is my personal opinion.

**Mr. Brand:** In other words, you feel that permissive abortion, such as they have in Japan right now, or as the Humanist Society suggested to us, would be the ideal situation.

**Mrs. Perron:** Personally I do because I feel I am responsible enough to be able to make the right decision for myself, and certainly I feel that no one can make the decision for me.

**Mr. Brand:** Does your society feel that way too?

**Mrs. Perron:** Yes, many of our members do. I have received letters from them, and they have told me.

**Mr. Brand:** Would you say that would be the consensus of your members?

**Mrs. Perron:** No, not all our members.

**Mr. Brand:** I am a little confused by statement No. 11 on page 2, where it reads:

To repeat: by no stretch of the imagination can it be reasonably demonstrated in the Canada of 1967 that this nation runs any risk of stagnation or extinction...

and this is the part that really confuses me:  
 ... as result of women being given the power to control their own procreation ...  
 and then you go on:  
 ... least of all a risk great enough to justify the continued withholding from women of their own natural birth right.

Now, to say the least those statements are confusing. By controlling their own procreation, of course, they control whether or not they become pregnant, which is birth control. What do you mean by "their own natural birth right"?

**Mrs. Perron:** Well, personally, I feel if there is no other way; if birth control measures have failed, it should be our privilege to decide for ourselves whether or not we can handle another child.

**Mr. Brand:** That is what you are saying in that very involved sentence?

**Mrs. Perron:** As far as I can see, yes.

**Mr. Brand:** On page 3 you speak about a suction machine. Where did you get your information?

**Mrs. Perron:** I have some very good scientific data on that with me. I have two articles here on abortion induced by means of the uterine aspirator. This paper was written by Dorothea Kerslake and Don Casey.

**Mr. Brand:** Could you tell us where it was published?

**Mrs. Perron:** *Obstetrics and Gynaecology*. I will gladly let you see these, if you wish. It is the July 1967 issue, No. 1, Volume 30.

**Mr. Brand:** I think the Chairman can check the authenticity of the document.

**Mrs. Perron:** I may add here that we are particularly interested in this method because it is very effective. The dangers are much, much less than the ordinary D and C; there is no danger of perforation and so on. Because I am not a qualified medical practitioner I cannot explain it to you in technical terms. I have read these papers and they are not that difficult to understand. Our medical adviser has also read these papers. Apparently he was most impressed.

**Mr. Brand:** Who is your medical adviser?

**Mrs. Perron:** Dr. J. C. Whyte. He is the Chief of Obstetrics and Gynaecology at the Ottawa Civic Hospital.

• (11:50 a.m.)

**Mr. Brand:** You go on on page 3 to proclaim that:

... the unborn child of every Canadian mother should be acknowledged to enjoy certain rights as its heritage, in this land whose law enshrines in the Bill of Rights the principle of "the dignity and worth of the human Person" ...

and you go on to describe them. Then you go on to describe these rights as rights which you are giving to the mother, not to the child. I do not follow you fully in this regard.

**Mrs. Perron:** We feel that the child or the future child has a definite right to be born to a mother who is able to care for it.

**Mr. Brand:** Do you feel that the answer to that would be abortion, if the mother is not able to care for it, or that perhaps methods should be adopted, through social legislation, to ensure that the mother is able to care for it? In other words, would you close the stable door before or after the horse was stolen?

**Mrs. Perron:** I think prevention is better than cure. I do think that if we have a concentrated birth control program in the first place, and educate some of the people who need this type of education, this will cut down on the abortion rate; and this, of course, could prevent conception as well—just as I feel that if some persons wish to be sterilized they should be able to do so.

**Mr. Brand:** When you talk about "the right not to be born as a result of rape or incest" I find this a rather peculiar right.

**Mrs. Perron:** I do think that it will always reflect on the child. I feel that to be in this condition is one of the most base assaults on a woman's whole being and her feeling and everything. I can imagine that this must create a great deal of friction within the family. I would definitely be in a terrible mental state. I can just imagine what will happen when your husband sees you grow larger with child and he knows it is not his.

Besides that, you are in a terrible mental condition, and also possibly in a very bad physical condition. I think you would probably blame this child for the rest of its life. These are my own views, as a mother.

**Mr. Brand:** Do you think, then, that it is a right of the child that it should be aborted then rather than having something done to improve the attitudes of the mothers and of society, as has been done in Sweden?

**Mrs. Perron:** But in Sweden, as you know, they do perform abortions in cases of rape and incest.

**Mr. Brand:** I am aware of that, but you are also aware, Mrs. Perron, that the unmarried mother there—let us take her as an example, because she gets raped, too—has a much better status in society than, say, in this country?

**Mrs. Perron:** Oh, I see. As a matter of fact, as far as unmarried mothers are concerned, and getting away from the rape, I think Denmark has the best system I have come across, and this is what I said before. We should encourage these girls or women to keep their children rather than discourage them and ask them to give them up for adoption.

**Mr. Brand:** This is one of the parts where there is conflict in your report. It puzzled me. You suggest this, and it is quite laudable to do so, but at the same you are suggesting that perhaps we should abort them instead. I do not really quite follow your thinking.

**Mrs. Perron:** Are you referring to rape again, or just...

**Mr. Brand:** I am not referring to anything, rape or otherwise.

**Mrs. Perron:** These were my personal observations, as I said. I feel that I am quite responsible enough to decide that for myself.

**Mr. Brand:** I am having difficulty in deciding what you mean. That is my problem, Mrs. Perron. I am quite willing to accept these views as being yours, but I am a little puzzled by them, that is all.

You say in section 16 another thing that puzzles me:

...it must be accepted that the quality of life itself is of the greatest importance, especially to the children of the future who are literally the hope of the world.

That is a statement with which, I am sure, none of us will disagree. However, are you perhaps suggesting there that the idea of selective abortion to produce a better race would be a good thing?

**Mrs. Perron:** No; this is not it. Actually that refers, from a woman's point of view, to the quality of life that we give to the child, thinking of the child rather than the mother. If I, say, were pregnant now and I knew that

there was a 50, 60, or 75 per cent chance that this child would be severely malformed in some way, or mentally retarded, or what have you, I would not be giving this child the right chance in life. He would have ten strikes against him right from the time of birth.

**Mr. Brand:** You read to us a letter that someone had written to your society about the mother of the mongoloid child, and mention was made there of a weak foetus. I think it is a very highly emotional subject to bring into these discussions, but to be completely practical about these things I would like to know who decided about the weak foetus and how you can decide about a weak foetus. I do not know what this means. As a physician, I do not understand the term, and I do not think it has any validity.

**Mrs. Perron:** Well, I should have omitted that part, possibly, but I just read the letter as it was written to me because it was someone else's opinion.

**Mr. Brand:** Are you not aware that it is very difficult to tell within the first three months whether or not a child is going to be a mongoloid? There is no way of knowing now. There may perhaps be improvement in the future in the matter of chromosomal studies, but it certainly cannot be done at present to any great degree.

**Mrs. Perron:** There is this test that was discussed in the issue of *Lancet*. Apparently these doctors are taking a sample of the amniotic fluid and they can ascertain certain illnesses. This test, of course, has to be updated. They have not finished their work.

**Mr. Brand:** It is experimental, is it not? Is that not correct? I would not want the Committee to get the wrong impression, that all these things are available now. There are attempts being made.

**Mrs. Perron:** Oh, no; it is not commonly practised.

**Mr. Brand:** We are trying to change the abortion laws to meet present-day situations, not for what we hope in the future will be a much better and more selective method of deciding whether or not a child is grossly deformed. Is that correct?

**Mrs. Perron:** No; but there are certain instances, I think, where this can be foretold. For example, if there is a hereditary streak in the family or a...

**Mr. Brand:** There is heredity in every family, Mrs. Perron. That is why you are here.

**The Chairman:** Is that your last question?

**Mr. Brand:** My last question is: Would you consider, as with measles,—as the witnesses at our last meeting agreed—that such things as deafness should be considered grave deformities and enough to allow an abortion to be performed?

**Mrs. Perron:** In the case where the mother contracted german measles in the first few months?

**Mr. Brand:** Yes.

**Mrs. Perron:** Yes.

**Mr. Brand:** Do you consider deafness a grave deformity?

**Mrs. Perron:** Oh, yes; I think so.

**Mr. Brand:** Yes. Helen Keller would not agree with you. Thank you, Mrs. Perron.

**Mrs. Perron:** Yes, I know.

**The Chairman:** In fairness to the medical profession, I think they pointed out that they were worried about multiple deformities rather than just one.

**Mr. Brand:** They also agreed, Mr. Chairman, that there were preventive measures which were being used.

**The Chairman:** Agreed. Mr. Matte?

[Translation]

**Mr. Matte:** I would like to ask just one question in French, please. You propose many reasons for allowing abortion. For what reasons and under what circumstances would abortion not be permitted? In other words, when do you advise against abortion?

• (12:00 noon)

[English]

**Mrs. Perron:** Possibly we should not decide too hastily. I must make reference to the mothers' aid centres in Denmark.

As you probably know, women are usually very sensitive and very vulnerable during the first three months of pregnancy. It may well happen that one of these women may feel at a certain time that she cannot cope, she just cannot have this child. It may be that she already has three, four or five small children running around. She may have had

these children close together. She may be physically as well as mentally worn out. She might regret it if she decides to procure an abortion. I think if we could set up something in Canada such as these mothers' aid centres, where women can receive personal support, psychiatric help and counselling of some kind to help them over this rough spot, that this would be the solution to the problem.

**Mr. Matte:** Is this the only reason we would permit an abortion?

**Mrs. Perron:** As the only reason?

**Mr. Matte:** We do not permit abortion.

**Mrs. Perron:** I am sorry, I do not understand.

[Translation]

**Mr. Matte:** I would like to know for what reasons and when you advise against abortion?

[English]

**Mrs. Perron:** Actually I have nothing much to say about that. The only thing I can say is that we should not be too hasty in permitting a woman to have an operation, but I cannot think of any particular instance. I feel that the medical profession will be able to decide this and also in what cases it should be decided against. I think they are more qualified than I am.

**Mr. Rock:** I would like to continue questioning along the same lines. You suggested that we should have a referendum among the women of Canada. What form should this referendum take? What form should the ballot take? Would it be a referendum where every woman would have the privilege of deciding her own fate? It is a broad subject.

**Mrs. Perron:** Yes, I realize that.

**Mr. Rock:** You suggested a referendum, so...

**Mrs. Perron:** I suppose this would involve some extra expense. Probably we could outline this on the ballot and see to what extent they wish to go.

**Mr. Rock:** Yes, but what do you want on that ballot?

**Mrs. Perron:** Do you mean personally?

**Mr. Rock:** Yes.

**Mrs. Perron:** I would like to see abortion by consent.

**Mr. Rock:** Consent by the individual?

**Mrs. Perron:** Yes. I cannot speak for everyone else. I am giving you my personal opinion.

**Mr. Rock:** This is what I want.

**Mrs. Perron:** Yes, and many of our members feel the same way.

**Mr. Rock:** Many of the members feel the same way. You go further than the brief has outlined?

**Mrs. Perron:** Yes.

**Mr. Rock:** In the introduction to your brief you mention three points which more or less follow the three bills which are now being studied, but you, and a lot of your members feel you should go further than that?

**Mrs. Perron:** Yes.

**Mr. Rock:** Do you feel it should be up to the woman who is pregnant to decide if she should have an abortion or not?

**Mrs. Perron:** Yes. I think after she has been instructed in proper birth control, and so on and so forth, that any mature, intelligent woman can very well decide for herself. As I said, she knows her own capabilities and I feel it would be quite safe to leave it up to her.

**Mr. Rock:** Then you are against such a thing as a board, which has been suggested, where the woman would have to appear before the board together with lawyers, doctors, and so on?

**Mrs. Perron:** Speaking for AMCAL as well as personally, we do not approve of a board being set up.

**Mr. Rock:** You mentioned before that the decision should be up to the doctor. Do you still feel it should be up to the doctor or should it be up to the woman herself to decide?

**Mrs. Perron:** This, of course, depends on what type of legislation we will have.

**Mr. Rock:** We are here to listen to witnesses and then we will later recommend legislation. It depends on what the witnesses say and it will be up to us to decide later what type of legislation we will recommend to Parliament.

**Mrs. Perron:** I would like to make it clear that we are requesting permissive legislation.

We are not trying to impose our views on the rest of the population. I feel the final decision should rest with the woman.

**Mr. Rock:** When you suggest that a referendum be taken amongst women, do you feel that men do not have the ability or the same feelings as women in these cases? Do you feel that we as men should not be the final judges of what women want?

**Mrs. Perron:** I am afraid it is a lack of experience! After all, we are the ones who bear the children and we know how we feel. I do not believe that even my husband really knows how I feel when I am pregnant.

**Mr. Cowan:** Mrs. Perron, you have been in this country how long?

**Mrs. Perron:** Ten years.

**Mr. Cowan:** Did you know the laws of the land when you decided to come here?

**Mrs. Perron:** Pardon?

**Mr. Cowan:** Did you know the laws of the land when you decided to come here?

**Mrs. Perron:** I had not really thought much about that, no. I was not aware of the abortion laws.

**Mr. Cowan:** I just wondered why you decided to come here with the abortion laws the way they are at the present time. Why did you decide to come?

**The Chairman:** Mr. Cowan, I do not think this is very relevant.

**Mr. Cowan:** Might I give my opinion on the same subject, Mr. Chairman? Mrs. Perron has been in Canada 10 years and she is giving us arguments to change the laws which have been in existence in this country for a large number of years.

**Mrs. Perron:** May I add that I chose this country as my own. I came here as a visitor when I was studying. I feel some improvements can be made in any country, no matter how high the standard of living may be or the legal standards, or what have you.

**Mr. Cowan:** You must have liked the laws when you chose to come here and we are happy you chose to come. However, in speaking directly to a question...

**An hon. Member:** She did not come here as an accident of birth!

**Mr. Cowan:** The accident of birth might apply to certain people but I am here because of planned parenthood!

Mr. Chairman, the witness, in speaking directly to a question asked by Mr. Ballard, said, "That child is an illegitimate child and I do not think there should be any such thing." Are you aware that in Ontario you do not register children now as illegitimate children? Some years ago they used to put that on birth certificates but that is not the law in Ontario today. There is no such thing as an illegitimate child in Ontario. There are illegitimate parents, but I do not know of any illegitimate children today.

**Mrs. Perron:** I was referring to society. Society still considers these children to be illegitimate. I agree completely there should be no such thing. I think society should change its attitude towards this.

**Mr. Cowan:** Society in Ontario has passed a regulation that children born out of wedlock are no longer specified on the birth certificate as illegitimate. Is that not society in action, the laws of the land?

**Mrs. Perron:** It should be but unfortunately the average individual still feels this way.

**Mr. Cowan:** The laws in Ontario were changed by average individuals, which I admire, and I am very happy to have had a small part in changing those registration regulations quite a few years ago.

• (12:10 p.m.)

I wish to raise a point here. I presume, having been in this continent 10 years, you are familiar with the phrase, "We hold these truths to be self-evident, that everyone is entitled to life, liberty and the pursuit of happiness." Do you know that phrase?

**Mrs. Perron:** Not that I recall. I know that this is a democracy and you may state your opinions.

**Mr. Cowan:** That is the opening phrase in the American Constitution, signed by a tremendous number of citizens of the United States.

**Mr. Knowles:** Why did you leave out the words "all men are created equal"?

**Mr. Cowan:** I am quite willing to add it. This is a statement that is subscribed to by hundreds of millions of people on this Continent.

On page 3 of your brief, paragraph 16, the first sentence reads:

Life cannot be regarded as an abstract concept or as something that is wholly good and invariably worth having.

Could we know who wrote that phrase and what the authority is behind it, in view of the general acceptance of the American Constitution statement that, "we hold these truths to be self-evident", and that everyone is entitled to "life, liberty and the pursuit of happiness."

**Mrs. Perron:** Exactly; I think everyone is entitled to that.

**Mr. Cowan:** It is right here in paragraph 16, the first sentence:

Life cannot be regarded as an abstract concept or as something that is wholly good and invariably worth having.

This is in direct opposition.

**Mrs. Perron:** It may not be to some people.

**Mr. Cowan:** At what time do we ask them if it is? Before they are born or after?

**Mrs. Perron:** I think if we can prevent this misery—and again I am speaking as a mother—I would like to prevent it. I think that women in particular instances such as these request abortions as a protective measure. We want to protect the future child as well as the existing family.

**Mr. Cowan:** I asked who wrote that phrase in paragraph 16. You did not give me an answer but that was all right, I presume. I wondered whether it was a lawyer or a doctor or who?

**Mrs. Perron:** It was an economist.

**Mr. Cowan:** An economist. Here on the North American continent or in Europe?

**Mrs. Perron:** Oh, no, no. He is right here in Ottawa, as a matter of fact.

**Mr. Cowan:** Then you write in the same paragraph 16:

it must be accepted that the quality of life itself is of the greatest importance,  
What do you mean by "the quality of life"?

**Mrs. Perron:** I mean the quality of life that we can offer the child we are going to bear.

**Mr. Cowan:** I understand that you are from Europe and that is OK with me. I was

just wondering if you would have been willing to have David Sarnoff born? He was born in Minsk, Russia, in the direst of poverty and came out to America steerage. Do you think that he should have been born for the "quality of life" that faced his family in Minsk, Russia?

**Mrs. Perron:** Well, I suppose this decision must be left up to the parents. I cannot speak for him.

**Mr. Ballard:** Mr. Chairman, could I ask a supplementary question to this concept that Mr. Cowan mentioned, "the quality of life". Does this mean the physical state of the child or the economic environment into which the child is born?

**Mrs. Perron:** I think it could possibly apply to both. I do not believe we should put a child into the world unless we can give him what we feel he should have; at least the bare minimum of what should be his. This is what I mean by that.

**Mr. Ballard:** In other words, in considering abortions you think economic considerations should rank even higher than physical qualifications?

**Mrs. Perron:** Not as high, no, but consideration should be given to this, yes. I have seen—and I am sure many others must have—some poor, miserable children running around and the parents could not care less if they were around or not. I remember seeing a little baby of about fifteen months sitting in the road playing with nails and with glass in his hand, and his mother did not care. All he had on was a dirty little diaper and it was a cool morning, one on which I would have dressed my children adequately. Of course, prevention is better than cure and I think these people should possibly be instructed in birth control. I cannot see this situation existing and I feel sorry for those children.

**Mr. Cowan:** Pardon me for interrupting but you said just now in the case of David Sarnoff, that it was up to his parents to decide whether he should be born. Now you are talking about a child that the parents could not care about and who was sitting there in a little diaper all by himself. Did the parents not make that decision? What are you complaining about?

**Mrs. Perron:** Some parents do not care, no.

**Mr. Cowan:** When you speak of "the quality of life" would you take the quality into

which David Sarnoff was born in Minsk, Russia, or the quality in which the Sarnoff family lives today in New York city? They have relatives in Calgary. I do not hesitate in the slightest to bring up this American example.

**Mrs. Perron:** I am sorry, I really cannot say too much about that.

**Mr. Cowan:** Well, I wondered when the parents should be making the decision; when in Minsk or when they finally got to Brooklyn.

In the course of your statement to the Committee, Mrs. Perron, you said women are forced to bear children. Is there no co-operation at all in the act of intercourse or is every time that occurs a matter of rape?

**Mrs. Perron:** No, but accidents will happen. There are some women—although there are many other methods of birth control at one's disposal—who cannot take the pill. We have to take into consideration the human element and I feel that we should not punish the child as well as the parents for the rest of their lives.

**Mr. Cowan:** You use the expression, "women are forced to bear children."

**Mrs. Perron:** They are at the moment.

**Mr. Cowan:** Is there no co-operation in the matter at all? Is it all a one-way street?

**Mrs. Perron:** Most women right now are being forced to bear children. They have to go to—

**Some hon. Members:** No, no, no.

**Mr. Cowan:** Men are not that vile.

**Mrs. Perron:** They have no choice, have they? Once they get pregnant they have no choice about this. This is what I meant.

**Mr. Cowan:** They have the privilege of wanting to become pregnant, have they not, Mrs. Perron?

**Mrs. Perron:** Yes, they do.

**Mr. Cowan:** That is the point I am trying to emphasize.

**Mrs. Perron:** Yet accidents do happen. I think it is a lack of sophistication as well. I think we must spread information on birth control as widely as possible and educate the people who particularly need it most.

**Mr. Cowan:** Who are the people who need it most, Mrs. Perron?

**Mrs. Perron:** I think some of the uneducated people, the poor people, who have possibly ten children and the husband makes \$50 a week. How are they going to take care of these children?

**Mr. Cowan:** Mr. Sarnoff, Sr., did not make \$50 a month in Minsk.

**Mrs. Perron:** No, but we are here in Canada now and we are really discussing Canada. I do not think they should have these children and I think they should be educated, if nothing else. I think this birth control material should be given to them free of charge if they cannot afford to buy it.

**Mr. Cowan:** In speaking about these unplanned pregnancies, and you are now using the word "accidents", although I point out that in all these "accidents" except the illegal ones in which you can use the Criminal Code, such as incest and rape, there is co-operation involved. Are you denying the rightness of Paul's epistles when he extols temperance in all things? Do you consider Tennyson as an old fuss-buddy and out of this age when he writes that "self-knowledge, self-reverence, self-control, these three alone lead to sovereign power?"

**Mrs. Perron:** I do not think that sexual intercourse is just an act performed for procreation; supposedly it is an act of love.

**Mr. Cowan:** What about self-control; does it not come in at all?

**Mrs. Perron:** It should come in but it is sometimes very difficult. We again have to take into consideration the human element and then there are such things as husbands being away for a long time, and so on and so forth.

**The Chairman:** This is your last question, Mr. Cowan.

• (12:20 p.m.)

**Mr. Cowan:** Oh, is there closure in this Committee too?

**The Chairman:** There is in that the Chairman always regulates the number of questions. We will come back to you. You may have another round.

**Mr. Cowan:** This is controlled by the Chairman?

**The Chairman:** Yes, this is controlled by the Chairman so that everyone gets a chance to ask questions. There is a time limit imposed.

**Mr. Cowan:** Well, I will make this the last question at this moment. Mrs. Perron in speaking referred to some woman talking about it; endeavouring to force an abortion on herself. She quoted her. She made the statement: "She was not successful in losing the baby." If you lose the baby is that considered success but if the baby is born somebody has lost. Is that the trouble here?

**Mrs. Perron:** This was just a matter of wording, I am sure. We mean that she did not succeed, that she did not lose the baby as a result of introducing this acid solution into her uterus.

**Mr. Cowan:** Unsuccessful in losing the baby; I did not know that losing a baby was a success, but, however, we learn. When does the next opportunity come up? Or, will we be told that the witness will not be here anymore in the future and we can ask the air when the witnesses are a long way away?

**The Chairman:** I am sure that we will have a chance to go around and ask more questions, Mr. Cowan.

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, I would like to come back to the subject matter of the brief now. I would like to approach this question of lack of clarity or confusion in the thinking of this brief. Am I correct in believing that the grounds on which you recommend abortion, as set forth in your brief, are those supported by the majority of the members of your Association?

**Mrs. Perron:** Oh yes, definitely. All the members agreed to these.

**Mrs. MacInnis (Vancouver-Kingsway):** In other words, this is what the Association wants to see in the abortion laws of Canada?

**Mrs. Perron:** Officially, yes.

**Mrs. MacInnis (Vancouver-Kingsway):** There is one thing that you have not put in. I think you said that if a woman wants an abortion you do not believe in any board being set up to rule on it?

**Mrs. Perron:** Yes.

**Mrs. MacInnis (Vancouver-Kingsway):** Supposing a woman wanted an abortion on any one of those three grounds, where would she go?

**Mrs. Perron:** To her doctor.

**Mrs. MacInnis (Vancouver-Kingsway):** In other words, there would not be anything necessary at all except to apply at the doctor's office for an abortion?

**Mrs. Perron:** The doctor would, of course, get a second opinion. We specify that on page 6: "Doctors should be given to understand, therefore..."

**Mrs. MacInnis (Vancouver-Kingsway):** But as far as you are concerned it would not necessarily need to be done in accredited hospitals or any particular location?

**Mrs. Perron:** No, I think not, as long as the operations are performed by qualified medical practitioners under the proper conditions in a hospital, whether it be a private clinic or whatever the case may be.

**Mrs. MacInnis (Vancouver-Kingsway):** From your membership across Canada and your correspondence, do you believe that this is about the point where most Canadian women would want to see the abortion laws? That is, such as you outline? Do you believe the majority of Canadian women would go for what you propose here at the present time?

**Mrs. Perron:** I am sure that the majority will go for this. As I have stated before many of them would like to see—

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, I understand that. But am I right in thinking the reason you have put these three conditions in is that you believe that is what the majority of the Canadian population is prepared for right now?

**Mrs. Perron:** Yes.

**Mrs. MacInnis (Vancouver-Kingsway):** Do you believe that birth control would be more desirable than abortion?

**Mrs. Perron:** Oh yes, of course. I think birth control is a most important factor. I think that the birth control pill should go through before.

**Mrs. MacInnis (Vancouver-Kingsway):** Is this your idea, then, of giving women a second chance?

**Mrs. Perron:** Yes, if all else fails; if nothing else can be done.

**Mrs. MacInnis (Vancouver-Kingsway):** Do you consider it irresponsible of parents to bring into the world children that they cannot look after physically that is, providing them with the things that are needed in life and their education?

**Mrs. Perron:** Yes, I do.

**Mrs. MacInnis (Vancouver-Kingsway):** No matter how many or how few children they have?

**Mrs. Perron:** Yes.

**Mrs. MacInnis (Vancouver-Kingsway):** Do you think that any woman would willingly, if she knew how to avoid it, give birth to a seriously defective child?

**Mrs. Perron:** I think that most women, if they knew this, would want to prevent the birth. Now, I cannot say—

**Mrs. MacInnis (Vancouver-Kingsway):** I am just asking what you think.

**Mrs. Perron:** I cannot speak for all women. I know in my case I would want to because, as I explained before, it seems to me that every mother wants the best for her child. Of course we cannot always give them the best. But at least we can give them the necessities of life. This is something we should be able to do and if a child is terribly malformed at birth we cannot do this. I think it must be a terrific strain on the mother and heart-breaking as well to think about it.

**Mrs. MacInnis (Vancouver-Kingsway):** Is this just because of the mother's own discomfort and inconvenience or is it because the woman believes that the child will never have a fair chance in life?

**Mrs. Perron:** As far as I am concerned, the main consideration is the child.

**Mrs. MacInnis (Vancouver-Kingsway):** I think I will let it go at that. Thank you, Mr. Chairman.

[Translation]

**Mr. Isabelle:** I will speak French. I want to speak French.

First, Madam, I must congratulate you for choosing to settle in Canada and for making it your country. I must also compliment you on your beauty which properly reflects your great intelligence.

Unfortunately, we must think that if all citizens of Canada were intelligent, we would have no problems. We have no law on family planning. Do you not believe that the law could be applied as it stands or that it should be amended even though an act will be introduced to allow family planning? The purpose of this act will be the education of these persons who, as you have so well said, should be educated on this matter in order to reduce the number of "accidents" and finally, of criminal abortions which could happen. I refer to what you have set forth in your brief, especially in chapter 2 of the Introduction. In my opinion, this could not be done in the first paragraph without making the rest obsolete. In other words, with the planning act, we cannot allow this today under the Criminal Code. If we could allow distribution of information and education about contraceptives, do you not think that the other two paragraphs simply could be removed?

[English]

**Mrs. Perron:** Which two paragraphs?

**Mr. Isabelle:** Paragraph 2 in your introduction of the brief.

**Mrs. Perron:** Yes.

**Mr. Isabelle:** You said: "When the physical or mental health of the mother is endangered".

**Mrs. Perron:** Yes.

**Mr. Isabelle:** Would that be sufficient if some other law came into force? I ask because we are studying an amendment to the Criminal Code on contraception. It will become a question of education, in other words. So, do you not think that this first paragraph will be enough and we could delete the two others which state that:

• (12:30 p.m.)

When pregnancy is the result of rape or incest.

And the other one—

...a high probability of retardation or malformation of an unborn child...

**Mrs. Perron:** I must say that in cases of rape or incest, no birth control material would be used because this is not an anticipated happening. And there could be a high probability of retardation or malformation of an unborn child in the case of a

planned child, a wanted child. This may happen. So that birth control would have no effect here.

**Mr. Isabelle:** I am telling you that because I feel that if you leave this condition of rape or incest you might deprive some country of great men like generals or presidents or even ministers. Do you not think you are going a little bit too far by opening this modernization of abortion in the way it is presented by your organization? Do you not think you are opening the door a little bit too wide?

**Mrs. Perron:** No, I do not think so.

**Mr. Isabelle:** I do not have any further questions.

**The Chairman:** Perhaps this would be a good place to bring to the attention of the Committee, although I am sure everybody is aware of it, that the recommendations of this Committee concerning birth control have been introduced in the other place in the form of Bill S-22. It might be interesting to the members to compare that with their recommendations.

**Mr. Brand:** There is just one thing I would like to say. As a fellow immigrant, Mrs. Perron, I would like to disassociate myself from any aspersions cast on immigrants to this country. I have no other questions at the moment, Mr. Chairman.

**Mr. Prittie:** I have just one comment on the last point made by Dr. Isabelle. He said that you may prevent some great person from being born. I think every time a couple decides to practice contraception that is likely to happen. I have three children, and none of them are showing any signs of being geniuses. Perhaps if I had decided to have nine more than that there might have been a genius in the group. I do not know where this line of argument leads you.

**The Chairman:** Mr. Rock, have you anything further?

**Mr. Rock:** Yes. Mrs. Perron, you said that a poor family should not be permitted to have 12 or 13 children, or something to that effect. Since you have been here only ten years, I would like to know whether you are aware of the social laws we have here by which such families are aided financially by various governments. Also, all children must go to school until they reach a certain age, and we have almost free education in univer-

sities—I say “almost”.

**Some hon. Members:** Oh, oh.

**Mr. Rock:** I say “almost”. There is financial help available, and if a student does work in the summertime he can well afford to go to university, if he is capable of higher learning. Are you aware of these facts? If so, do you still feel that these poor families should not have these children?

**Mrs. Perron:** I do not mean that we should make a law saying you may not have that child; we cannot do this. What I mean is that it is a very responsible action and a very responsible thing to bring a new life into the world, and I think if you realize this then you should not have more than you can look after. I am not talking about the person who has adequate finances or makes a good enough salary; they normally could look after their ten children but suddenly the husband has an accident or something. I am not referring to that at all, and I think society definitely should help these people. However, I feel that one should limit one's number of children. One should only have as many children as one can support. I do not feel that I want to rely on the government to take care of my children. That is my responsibility.

• (12:35 p.m.)

**Mr. Rock:** Do you not feel that it is still up to the individual in both cases: to have children or not to have children, to have abortion or not to have abortion?

**Mrs. Perron:** It is up to the individual, yes.

**Mr. Rock:** I could not comprehend why you stressed the point that parents who, financially, are not well off, should limit the number of children they have.

**Mrs. Perron:** No; I said we should have sex education and family planning taught in the schools so we can stress to these youngsters what a great responsibility it is to have children, that they do not just have them and then say, “oh, well, the government can take care of them if I cannot”. This is what I mean.

**Mr. Rock:** Suppose a poor family wants to have a lot of children; they would love to have a lot of children. Should they be deprived of this right?

**Mrs. Perron:** No, they should not be deprived of this right but I feel it is irresponsible then to have them.

**Mr. Howe (Wellington-Huron):** I do not agree with your last statement Mrs. Perron. I know many large families which are not irresponsible. I have watched many of these children grow up and they have shown a sense of courtesy, appreciation and responsibility, and many of them have taken their place in society much better than where there were only one or two children in the family.

**Mrs. Perron:** I am not objecting to large families at all but I feel they should be supported and given adequate care. I feel I am responsible for my children and I cannot shirk this responsibility. It is mine because I have borne these children.

**Mr. Howe (Wellington-Huron):** Who is to decide how many children a person who is making \$5,000 a year can have and how many a person who is making \$10,000 a year can have? I know of cases where low salaried people look after their children much better than some people with better salaries.

**Mrs. Perron:** I do not think anyone should decide this for them. It is up to the individual.

**Mr. Howe (Wellington-Huron):** You mentioned the quality of life when speaking of babies born in squalor. There is a very good article in today's *Globe and Mail* about Yorkville in Toronto. At what stage would these 15 or 16 year old children, who have decided they want to live this way, be not wanted? A lot of them probably come from the very best homes.

**Mrs. Perron:** There is irresponsibility, I think, amongst all classes. It does not necessarily have much to do with income and so on.

**Mr. Howe (Wellington-Huron):** I was thinking of this quality of life that you speak about. Do you define the quality of life by the homes that the children are brought into when they are born?

**Mrs. Perron:** No. I said the quality of life we can offer the child himself may apply physically, mentally or what have you.

**Mr. Howe (Wellington-Huron):** My contention is, as someone else mentioned here, that the child is not being brought into a quality of life but, rather, that it is something within the child himself that makes for greatness and the way it develops.

**Mrs. Perron:** Yes, but there are many of them that are not being developed and do not have a chance to develop.

**Mr. Howe (Wellington-Huron):** The percentage is not as large as the ones that are being developed though. You would not say that 50 per cent of the children brought into this world do not have a proper background or an opportunity to enjoy this quality of life of which you speak.

**Mrs. Perron:** I could not give you any figures, no.

**Mr. Howe (Wellington-Huron):** Thank you.

**The Chairman:** Mr. Cowan?

**Mr. Stanbury:** If Mr. Cowan wishes to give way to me, Mr. Chairman, and there is no one else ahead of me, I would like to ask one or two questions. I gather that this submission does not by any means suggest abortion on request. It is much like the submission by Mr. Wahn in his Bill. Is that correct?

• (12:40 pm.)

**Mrs. Perron:** No. As far as I can recollect, Mr. Wahn only wants the Criminal Code clarified with regard to the physical or mental health of the mother.

**Mr. Stanbury:** You are suggesting termination on the basis of probability of retardation or malformation of the unborn child or where serious hereditary disease is present. Do you not feel that this kind of change in the law would have very little effect on the incidence of criminal abortion?

**Mrs. Perron:** I think it will not have a great effect but it will have some, I am sure, because I have some case histories to that effect. As a matter of fact, I know some women who have said that their physical and mental health was in danger and they still could not get an abortion. The pattern of granting abortions across Canada is very inconsistent, because one hospital will let you have an abortion and another one will not. I have had several statements from women that you have to be literally at death's door before you are able to get one. I have some cases on file where, for instance, one woman actually went to the extent of trying to commit suicide. She told a psychiatrist beforehand: "If I get pregnant again, I just cannot go through with it." So they sent her to another psychiatrist and they sort of laughed it off and said: "Oh well, she is just threaten-

ing" but she did go through with it. They caught her in time and consequently she did have this therapeutic abortion.

**Mr. Stanbury:** I suppose there is still the danger of that under the law that you propose, because the decision as to whether or not the threat to health is serious enough would still be in the hands of doctors who might make different decisions in some areas than in others. There might not be great consistency in the criteria that would be used.

**Mrs. Perron:** I think that with the attending physician plus another opinion the woman should be quite fairly dealt with because I think he can evaluate her physical as well as her mental condition quite accurately. I have that much faith in our medical profession.

**Mr. Stanbury:** You oppose the idea of therapeutic abortion committees in hospitals making this decision?

**Mrs. Perron:** Definitely.

**Mr. Stanbury:** And that opposition is on the basis of its being too open to rigidity and a conservative assessment of the basis for the request?

**Mrs. Perron:** Yes. There may be a certain amount of friction in a committee of this nature, and also there will be a lot of red tape, as I have stated before. It will be a rather lengthy procedure and then where are these boards going to be set up? How are women going to get before these boards and so on and so forth?

**Mr. Stanbury:** We are not talking about boards I think in the sense that the Canadian Bar Association was talking about boards. What I am referring to is an abortion committee in a hospital which the Canadian Medical Association told us operated quite well and quite promptly now.

**Mrs. Perron:** No, we do not approve of that either.

**Mr. Stanbury:** I see. You mention, as a number of people have, the need for a specific ground of termination being pregnancy resulting from rape or incest. Are you familiar with the discussions that went on in Britain about whether or not some specific reasons, such as those, should be included in their law?

**Mrs. Perron:** Yes, I am. I realize this, but we feel that if something of this nature happens to a woman, she should be given the benefit of the doubt, rather. This is the most horrible thing that I can imagine could happen to any woman.

**Mr. Stanbury:** Do you conceive—perhaps I had better not use that word—can you imagine any situation where a victim of rape or incest would not be affected pretty severely mentally by the birth of the child? I think it was assumed in Britain when this was discussed that there would be no doubt that doctors would treat this as a severe threat to her mental health, and that by making specific provisions for such grounds of termination, they were simply inviting difficulties and red tape and medical judgments of legal facts which were more dangerous and really unnecessary. I just wondered whether you had had the opportunity to consider this and what you thought about it.

• (12:45 p.m.)

**Mrs. Perron:** We have thought about it, but we felt that this point must be brought up. Being women we feel very strongly about this, but with regard to waiting until the offender or whatever you call him is convicted, I do not think this will be necessary, because I am sure that most women who have been raped would be in such a terrible mental state, and possibly a terrible physical state as well, that a doctor would procure an abortion under the first point.

**Mr. Stanbury:** I gather, then, you agree with me that of all the causes for a doctor to authorize an abortion because of threat to mental health, this would probably be the greatest.

**Mrs. Perron:** Yes.

**Mr. Stanbury:** And it is probably unnecessary and might simply complicate the law to stipulate grounds such as these in the law. This is the conclusion I gather was arrived at in England.

**Mrs. Perron:** Yes.

**Mr. Stanbury:** Thank you.

**The Chairman:** Mr. Cowan, you are next.

**Mr. Cowan:** Mrs. Perron, in your brief you refer:

The views expressed in this Brief reflect the basic objectives of the Association, ... How many members has the Association?

**Mrs. Perron:** About 350 registered members.

**Mr. Cowan:** How long has it been in existence?

**Mrs. Perron:** About a year, officially.

**Mr. Cowan:** What is the size of the membership fee? One dollar, I heard some...

**Mrs. Perron:** Yes, this is the minimum fee.

**Mr. Cowan:** Is there any concentration in any particular provinces?

**Mrs. Perron:** Pardon?

**Mr. Cowan:** Any particular concentration of membership in any particular provinces?

**Mrs. Perron:** No, we have members from across Canada.

**Mr. Cowan:** In the third section of paragraph 2 you talk about: "when there is a high probability...". How high would that percentage of probability have to be?

**Mrs. Perron:** I think that possibly the medical profession could estimate this better than I could. As far as I am concerned, if there was any doubt in my mind that I would have to bear such a child, I would rather have an abortion.

**Mr. Cowan:** Well, if this is up to the medical profession, why do you say: "when there is a high probability"? Why do you not say "when there is a probability"? If it is a low probability you would not have an abortion then.

**Mrs. Perron:** When there is a high probability, yes.

**Mr. Cowan:** I ask how high is high?

**Mrs. Perron:** I would say 40 or 50 per cent.

**Mr. Cowan:** Then you speak "when there is a probability of retardation." Do you know many doctors that can tell that a foetus is going to be born with mental retardation in advance of birth?

**Mrs. Perron:** I do not know many doctors. I have read about the method of examining the amniotic fluid from which certain grades of retardation can be told, but as I said, this is being advanced.

**Mr. Cowan:** You speak in paragraph 5, down the fourth line from the bottom:

...in their long struggle to suppress sin by legislation.

The reference is not particularly flattering to the society to whom you refer. To suppress sin by legislation, should there be no laws against theft, or thievery or arson? Are we not endeavouring to suppress sin by legislation in those fields? Or is theft and arson not a sin?

• (12:50 p.m.)

**Mrs. Perron:** They are considered crimes, are they not?

**Mr. Cowan:** I asked if they were sins. I just ask: are you in favour of having the laws abrogated in Canada by which we endeavour to suppress thievery and arson?

**Mrs. Perron:** I beg your pardon?

**Mr. Cowan:** Are you in favour of abrogating the laws in Canada by which we endeavour to suppress the sins of thievery and arson?

**Mrs. Perron:** Well, I think there are certain things—we have to have certain rules in society. I mean, we cannot have people going around burning other people's houses down.

**Mr. Cowan:** I am in agreement 100 per cent. I am in favour of endeavouring to suppress sin by legislation, but your paragraph 5 does not follow that line of reasoning. In the last sentence of your paragraph 5 it reads,

It mattered not that married couples were deprived of their freedom to regulate the number of their offspring . . .

Do you know any married couples that are being deprived of the freedom of self-control when it comes to regulating the number of their offspring?

**Mrs. Perron:** We are making reference to this—

**Mr. Cowan:** —to your brief?

**Mrs. Perron:** Yes; but we are referring to the Society for the Suppression of Vice, and this was 1873. Now, we are in 1967.

**Mr. Cowan:** Paul wrote about the year 80, I believe, also. That is a lot further back too.

**An hon. Member:** What did he say?

**Mr. Cowan:** He said: "Be temperate in all things", is one thing, if you are not familiar with it. I asked you: It matters not that married couples were deprived of their freedom to regulate? Are married couples deprived of their freedom to regulate their families by exercising control?

**Mrs. Perron:** If birth control material is not available, yes; because if you are referring to the rhythm method I do not believe in it, and I am afraid there are many, many other people who do not believe in it as well.

**Mr. Cowan:** I did not get the phrase.

**Mrs. Perron:** Oh, I am sorry. If you are referring to the rhythm method of birth control . . .

**Mr. Cowan:** No; I am not referring to it in any manner, shape or form. You speak in paragraph 8:

The question which the people of Canada must one day face, and decide through due Parliamentary process, is whether the law has outlived its usefulness and should be brought into line with the needs of contemporary Canadian society . . .

Why do you use the word "needs"? What changes have there been in contemporary society since, say, 60 years ago, or 120 years ago? —Is the need absolutely unrestricted intercourse all day, all night? What do you mean by the word "needs"?

**Mrs. Perron:** I think this must be left to the individual.

**Mr. Cowan:** This has nothing to do with the needs of contemporary Canadian society. You are speaking of a group, not of the individual.

**Mrs. Perron:** Well, the group is made up of individuals.

**Mr. Cowan:** What are those needs, is what I am asking you. What are the needs to which you are referring?

**Mrs. Perron:** The needs are individual. There are certain groups who have certain needs and there are other groups who have other needs.

**Mr. Cowan:** In paragraph 10 you refer in the third sentence,

It does not concede, however, that negative repressive measures were then, are now, or ever could be justified . . .

You would take it that Paul's writings were repressive and cannot be justified when he recommends "be temperate in all things"?

**Mrs. Perron:** Well, the trouble is, I think, that by prohibiting this we are driving it underground, and we have done so already.

Abortion is the third best paying crime in Canada today, behind gambling and narcotics.

**Mr. Cowan:** Paul was speaking about events several weeks before any need of abortion when he said, "Be temperate in all things".

You go on in that paragraph 10 to state—I am sorry that Mrs. MacInnis has left us;—because you have here

And there stand in the rear ranks of civilization those societies like ours in Canada, in which the male half of the population, exercising sovereign power over the other—female—half through its traditional dominance of the legislative apparatus...

Do we not have votes for women in this country?

**Mrs. Perron:** Well, we do, but not on abortion.

**Mr. Cowan:** Why do you come to Parliament, then, which has four women in its body, if we do not have votes for women in this country?

**Mrs. Perron:** I agree. We should have a few more female members of Parliament.

**Mr. Cowan:** You are talking about "exercising sovereign power over the other—female—half".

**Mrs. Perron:** Well, most of our legislation is made by man, there is no doubt about that; and since man has never had any experience in this matter...

**Mr. Cowan:** In my own case they had a choice between electing a man or a woman in 1962, and I cannot say that I forced them to vote for me. They chose a male in that case as against a woman.

**Mr. Ballard:** They just did not know you.

**Mr. Cowan:** I lived in the riding. She never did. But I just ask you: Do you not have any confidence in the efficacy of the votes for women? I have always been in favour of it. Why do you refer to the sovereign power of the male over the female when we have votes for women in this country? Are the votes for women useless?

**Mrs. Perron:** No; but as regards abortion they most certainly are.

**The Chairman:** Last question?

**Mr. Cowan:** You have here in paragraph 15,

AMCAL proclaims that the unborn child of every Canadian mother should be acknowledged to enjoy certain rights...

These include,

The right to be born healthy...

Supposing the child is born blind, what do you do then? His right is denied at birth according to this brief. What are you going to do with that child?

**Mrs. Perron:** Yes; but that is not the sort of thing we are discussing really. We are discussing malformation. We are not talking about children who...

**Mr. Cowan:** You are making a statement "to enjoy certain rights," and these include the right to be born healthy. If he is not born healthy what do you do?

**Mrs. Perron:** If at all possible we can prevent his being born with some kind of serious disease or malformation I think we should do so.

**Mr. Cowan:** Should blind people not be born at all?

**Mrs. Perron:** We are not talking about blind people, because blindness can possibly be corrected.

**Mr. Cowan:** You are talking about the right to be born healthy. I just chose this line as an example.

If my time is up, Mr. Chairman, I will submit to the guillotine.

**The Chairman:** Mr. Ballard?

**Mr. Ballard:** Mr. Chairman, first of all, I would like to re-emphasize something that Dr. Brand has already said, and that is that most members of this Committee disassociate themselves from the remarks made to Mrs. Perron about her being an immigrant to this country.

**Mr. Cowan:** No comment was made; there were questions asked.

**Mr. Ballard:** I have always taken the attitude that we are all immigrants to this country. The only difference is that some of us arrived a little sooner than others. If you look at the situation closely, the only people indigenous to this country are the Indians, and I do not see any of them in this room. Therefore, we were all immigrants at one stage or another.

**The Chairman:** It has also been theorized that they, too, were immigrants from somewhere else.

**Mr. Ballard:** I would also say to Mrs. Perron that it is not the objective of the citizens of this country that immigrants should be seen and not heard. We appreciate the expressions of opinion of people from wherever they come. You should not leave this committee room without some expression of confidence in you as a person from this Committee for the effort you have put forward in this regard and for the very able and learned presentation you gave this morning. I also want to question you on just one more point that was brought up by Dr. Brand. I do not think the answer you gave satisfied me. It was on the question of who should decide whether or not an application for permission for an abortion should be received.

• (1.00 p.m.)

In discussing this point at other meetings of this Committee we tried to decide whether the parent of a minor person should be the final arbiter on whether an application for abortion should be made.

**Mrs. Perron:** It is normal procedure with any operation that a parent or guardian will sign a paper if there is such a person available.

**Mr. Ballard:** The question arises for instance in the case of an unmarried girl under 21 years of age who wants an abortion but whose parents for one reason or another do not want her to have an abortion. In this situation who would be eligible or capable of making application for the abortion—to be this arbiter that you have chosen?

**Mrs. Perron:** I think the final decision should rest with the girl who, after all, is the one concerned.

**Mr. Ballard:** At what age would you say the girl would be legally competent to make this application? Would it be a 13-year-old or a 15-year-old?

**Mrs. Perron:** No; I would say 18.

**Mr. Ballard:** And anybody under 18 would have to have the permission of her parent or guardian for an abortion?

**Mrs. Perron:** Yes, because I feel that they are not really mature enough at that age to decide this for themselves.

**Mr. Ballard:** And that any girl 19 years and over would be able to make application on her own account?

**Mrs. Perron:** Yes. It would be good to confer with the parent but if there is any friction there then I think the final decision should rest with the woman.

**Mr. Ballard:** That was the question I had. Thank you.

**Mr. Rock:** Mr. Chairman, I would like to ask you a question, if possible. The statistics concerning illegal abortion are vague. We get certain figures of professional doctors who have had cases, after abortions, of repair jobs, as some say.

In Canada many professional doctors have performed illegal abortions and they have been arrested for this. Some of them have received sentences and imprisonment and have lost their licences to practise from the various medical boards in the provinces. I am sure that these figures are known and I would like to know whether it is possible in some way to have some of these former doctors appear before the Committee? It is impossible to have an illegal abortionist come here. None of them will come forward. But possibly some of these doctors who have lost their licences might want to appear before the Committee if invited. These names are known to the medical profession.

**The Chairman:** I doubt that such a person would want to appear before a parliamentary committee.

**Mr. Rock:** Perhaps if the meeting was held in camera, Mr. Chairman. I think this would add quite a bit to the information we have.

**The Chairman:** What sort of information do you think we might get other than what we have? We had the Canadian Medical Association here the other day and they admitted that they do therapeutic abortions.

**Mr. Rock:** I understand.

**Mr. Prittie:** Mr. Chairman, along that line I wonder if the Steering Committee has given any thought to inviting that officer of the Toronto Metropolitan Police Department to appear? I cannot remember his name but he was in the news.

**Mrs. Perron:** Detective Sergeant Quennell.

**Mr. Prittie:** He was in the news last year when he made an estimate of the number of

illegal abortions which took place within their jurisdiction. A person of that kind might be able to supply some of the information that Mr. Rock is speaking of.

**Mrs. Perron:** May I say something? His figures were quoted in the Ontario Medical Journal. I have a copy of it at home. Apparently the figures were found quite valid by doctors.

**The Chairman:** In answer to your question, the Steering Committee has not given any such consideration but would be pleased to discuss it.

**Mr. Rock:** Will you also consider what I suggested?

**The Chairman:** Yes.

Are there any other questions?

**Mr. Cowan:** I have one question supplementary to what Mr. Ballard said. The witness answered Mr. Ballard that a girl 18 and over should be able to apply for an abortion whether her parents agreed or not. I mentioned when we were hearing other witnesses some time ago that in my newspaper career I reported three cases where the guardians of girls under 18 were responsible for their pregnant condition. How would she get around the abortion laws there when the guardian will not apply and the girl under 18 would not be allowed to, according to your answer?

**Mrs. Perron:** I think she could be made a temporary ward of the courts or some such

thing. I am sure there must be some way of deciding that. I can tell you of an instance, for example, where an unmarried girl wanted to keep her child. She was engaged to be married but did not know that she was pregnant when her fiancé was killed in a car accident. She found out afterwards that she was pregnant and she wanted to keep this child. Her parents would not let her. She had to give the child up for adoption. She has such a guilt complex about having given away this child that now even though she is married she has never wanted to have another child because she keeps thinking continually of this child, where he is; what he is doing; if he is being taken care of, and so on. She said that she never wanted to have another child, but she only had one out of her sense of duty to her husband.

**Mr. Cowan:** Was the case referred to a forced pregnancy or an unplanned pregnancy?

**Mrs. Perron:** It was unplanned but she was forced to give up her child.

**Mr. Cowan:** No, I am talking about the pregnancy.

**The Chairman:** If there are no other questions, gentlemen, I would like to thank Mrs. Perron and Mrs. Wakelam for coming before us and presenting their brief. The meeting is adjourned until next Tuesday when we will have a brief from the Emergency Organization for the Defence of Unborn Children.

## APPENDIX "E"

A BRIEF  
CONCERNING THE AMENDMENT  
OF THE CRIMINAL  
CODE OF CANADA WITH RESPECT  
TO ABORTION

The Association for the Modernization of Canadian Abortion Laws (AMCAL) presents the following Brief to Dr. H. Harley, M.P., Chairman of the Commons Committee on Health and Welfare, in the hope that it will constitute a helpful contribution to the examination of the problem by all concerned, and especially by those whom the Government of Parliament may in due course appoint to advise them on the question of amending the Criminal Code.

## INTRODUCTION

2. The views expressed in this Brief reflect the basic objectives of the Association, which are to promote the reform of the present laws on abortion, especially with regard to three main points:

- When the physical or mental health of the mother is endangered.
- When pregnancy is the result of rape or incest.
- When there is a high probability of retardation or malformation of an unborn child, or because of serious hereditary disease.

3. For convenience, this Brief will be divided into two parts, the first dealing with the relevant general issues, and the second dealing with the specific limited objectives listed above.

## PART I—GENERAL

*The law*

4. Section 150(1)(c) of the Criminal Code states that every one commits an offence who "offers to sell, advertises, publishes an advertisement of, or has for sale or disposal any means, instructions, medicine, drug or article intended or represented as a method of *preventing conception or causing abortion or miscarriage*".

5. The significant thing to note about this section is that it is included under the heading "OFFENCES TENDING TO CORRUPT MORALS". There can be no doubt that when the law came on the statute books in 1892 the then prevailing climate of moral opinion in Canada was under the powerful influence

of the puritanical movement in the United States, spearheaded by Anthony Comstock whose Bill for "the Suppression of Trade in and Circulation of Obscene Literature and Articles of Immoral Use" became law in 1873, and gave him personally almost unlimited authority over American vice. The Society for the Suppression of Vice, the articulate voice of the puritan mind, regarded birth control and anti-abortion laws as the ultimate triumph in the use of fear—particularly fear of pregnancy among unmarried women—in their long struggle to suppress sin by legislation. It mattered not that married couples were deprived of their freedom to regulate the number of their offspring, or that countless unwanted children would be brought into the world; what did matter was that morality would be upheld by the authority of the law.

6. The other relevant section of the Criminal Code is 237, which prohibits the procuring of the "miscarriage of a female person". It lies between sections on Kidnapping and Venereal Diseases, which puts Abortion, as a crime, in very low company indeed!

7. The foregoing should suffice to demonstrate that Canadians today are the inheritors of an archaic law of obscure origin and conflicting purposes, whose basic rationale has long been discarded by the majority of North American society. AMCAL assumes that in these more enlightened times it would be unnecessary to develop this point further; in what follows therefore, it will be taken for granted that the only relevant issues meriting serious consideration are those generally encountered in contemporary discussions of the arguments both for and against retaining the present ban on therapeutic abortions.

*The Issue*

8. The question which the people of Canada must one day face, and decide through due Parliamentary process, is whether the law has outlived its usefulness and should be brought into line with the needs of contemporary Canadian society, or whether the present total prohibition on abortions really does best serve the national interest.

*AMCAL's Position*

9. AMCAL strongly supports the former view, and believes that the importance of the clamant social problem calls for urgent consideration and solution. For this reason

AMCAL very much welcomes the announcement earlier this year (February 24) of the Government's hope and intention to bring legislation before Parliament this year on divorce, birth control and *abortion*. In applauding this initiative, AMCAL expresses its readiness to support whatever action may soon be taken by the Government and Parliament with a view to ensuring a meaningful exploration of the full range of implications of the abortion question.

#### *AMCAL's Views*

10. AMCAL concedes that in the remote part of Canada's pioneer beginnings, the social problem of ensuring the survival of the race in the face of a hostile wilderness and primitive environment justified exceptional measures to promote population growth. AMCAL recalls with approbation the historical precedents in New France for today's "baby bonus", since those early practices were positive in character. It does not concede, however, that negative repressive measures were then, are now, or ever could be justified, since prohibitions against birth control measures—of which abortion is but one, albeit the one of last resort—represent a fundamental usurpation by society of a basic right of womankind. And there stand in the rear ranks of civilization those societies like ours in Canada, in which the male half of the population, exercising sovereign power over the other—female—half through its traditional dominance of the legislative apparatus, uses that untrammelled power to deny to women the very same rights they claim for themselves. More than that, such a society faces to the rear in the march towards progress.

11. To repeat: by no stretch of the imagination can it be reasonably demonstrated in the Canada of 1967 that this nation runs any risk of stagnation or extinction as a result of women being given the power to control their own procreation, least of all a risk great enough to justify the continued withholding from women of their own natural birth right.

12. Before discussing some of the reasons most commonly put forward in defence of the present laws, AMCAL wishes to offer the following supportive reasons for modernizing them.

#### *Prohibition has not solved the problem.*

13. Since women are at present denied the right of access to safe therapeutic abortions performed in hospitals or clinics by properly

qualified medical practitioners, there flourishes a blackmarket in illegal and dangerous abortions. (A recent seven-year study of maternal deaths in Ontario showed that 20.9% of direct obstetrical deaths were due to illegal abortions). No-one can deny that in Canada, as in every other country that enforces a legal prohibition, the problem has not been solved but merely driven underground, as happened earlier this century when alcoholic drinks were forbidden in the U.S.A. Abortion is therefore very largely in the hands of unqualified persons, and for most women the operation is not only expensive as only a black-market service can be, but dangerous and degrading as well. Detective Sergeant Wm. Quennell, former head of the Abortion Squad of the Morality Department of the Metropolitan Toronto Police Department, has estimated that 300 women die each year in Canada as a result of illegal abortions, of which about 35,000 are believed to be performed in metropolitan Toronto alone each year. He also estimated that \$500,000,000 is spent annually in Canada and the United States in illegal abortions.

#### *Legalized abortions are safe*

14. AMCAL assumes that the serious student of this subject will be sufficiently familiar with the standard medical literature on this subject that it would be unnecessary to make the case here for the very low degree of risk to the patient when a qualified medical practitioner performs an abortion using properly equipped and sterile hospital or clinic facilities (the risk is substantially less than that of childbirth itself). However it may not be generally known that in recent years a technique superior even to the D. and C. operation has been perfected, and is now being extensively used in China, Japan and Russia. According to a recent report by Edgar Snow, the authority on China, a negative-pressure device is used for "suction disemplantation" and is said to be "safe, clean, and practically painless". The patient requires no special post-operative care, and may leave the hospital in a few minutes. There is "very little risk of hemorrhage—much less than in surgical curetage—up to the third month of pregnancy". Abortion, which has been granted on demand in China since 1963, is regarded there as a logical and natural back-up of the usual birth-control techniques which rely on contraceptives. The new machine has civilized and simplified their birth-control problem.

Another method of abortion which is still being researched in Sweden is a new drug known as F-6103. This method of abortion promises to be completely safe, effective and entirely under the control of the prospective mother. The use of such a drug will take the onerous decision of abortion out of the hands of medical, secular and religious authorities and will leave the absolute decision in the hands of the person or persons most directly involved.

### *The rights of the unborn child*

15. AMCAL proclaims that the unborn child of every Canadian mother should be acknowledged to enjoy certain rights as its heritage, in this land whose law enshrines in the Bill of Rights the principle of "the dignity and worth of the human Person". These are:

(i) The right to be born to a mother who is able to care for it.

(ii) The right to be born healthy and free of serious hereditary disease, retardation, or malformation, so far as medical science is able and the parents are willing to prevent this coming to pass.

(iii) The right not to be born as a result of rape or incest.

16. Life cannot be regarded as an abstract concept or as something that is wholly good and invariably worth having. We would like to point out that legislators and society can force a woman to bear a child but they cannot force her to want, love or accept this child. Unless we are to be concerned entirely with the arithmetical or quantitative approach leading to the belief that there is magic in mere numbers, it must be accepted that the quality of life itself is of the greatest importance, especially to the children of the future who are literally the hope of the world.

17. Mention must be made here, for the honour of truth, of the fact that many Canadians favour the contrary argument that once conceived a child has the right to the "gift of life". This school of thought holds that the unborn belong to society as a whole, which needs these children, and that not even the parents can claim a right to reverse their decision to create a new life.

18. It should be obvious that if the "rights of the fetus" are to be recognized, they can be nothing if not legal rights (for otherwise the question would be reduced to the academic level). And if a fetus is to have legal rights in utero, what are they, and who can

protect them? In the courts, can action equally well be brought for wrongful conception on behalf of the fetus? Indeed it is noteworthy that an action for wrongful *birth* arising out of the rape of a patient in a mental institution is before the U.S.A. courts now.

### *Abortion is not murder*

19. This AMCAL's view, but since there are those who disagree, and would retain the present laws for this reason alone, the question merits consideration here.

20. The apparent rationale of sections 237 and 238 of the Criminal Code is that abortion=murder=crime. Abortion, be it recalled, is not itself defined in the Criminal Code except, inferentially, as the procurement of a miscarriage (also not defined) of a female person.

21. One is forced therefore to consult prevailing medical opinion to get at the meaning, in law, of these terms. As AMCAL understands *abortion*, it is the deliberate termination of pregnancy before the fetus has attained viability *ex utero*. (After that stage is reached, it is too late to perform an abortion safely). *Miscarriage* is termination of pregnancy occurring spontaneously and without the intention of the pregnant woman. Of course, a pregnancy can terminate at any time, either after a fetus has attained viability *ex utero*, or during the first twelve weeks while the unborn child is still an *embryo* and before it becomes a fetus. However, it should be noted here that the part of the Criminal Code dealing with HOMICIDE, section 195, states that a child becomes a human being (within the meaning of the Act) in effect after it has been born alive. After that point in time, neglect or a fatal injury caused to the new-born child—now a human being would be *infanticide* and thus (under section 194(5)) *culpable homicide*. Before or during birth, however, a person who causes injuries to the unborn child, as a result of which it dies, commits *homicide*.

22. Culpable homicide (sub-section 194(5)) is the causing of death to a *human being*. It follows, accordingly, that to cause the death of an unborn child is *not culpable homicide*, and therefore not an offence, under section 194.

There is, however, another section that bears on this point: 209. Its importance lies in the fact that, unclear and ambiguous as it

may be, it is the section of the Code under the possible protection of which such abortions as purport to be therapeutic, are in fact performed in Canada. This much must be said: if section 209 means anything at all, it must mean that it relates to the case of an unborn child which has at least quickened, if not indeed reached the state of viability *ex utero*, for otherwise there would be no possible way of regarding the fetus as a potential human being capable of proceeding in a living state from the body of its mother (section 195). To destroy such a potential human being is, therefore, punishable under section 209 as if it were murder. And the escape clause found in sub-section 209(2) cannot, as the law stands, be invoked in defence of a person who in good faith terminates a pregnancy during the early stage while the child is an embryo (the first twelve weeks), or after it becomes a fetus, but *before* it quickens.

23. The foregoing should suffice to establish AMCAL's contention that the present law is badly in need of revision and clarification because it is, at best, ambiguous, and, at worst, self-contradictory (sub-sections 194(3) and 209(1)).

24. Leaving aside all these semantic intricacies, and returning to the central point of paragraph 20 it must be assumed that for practical purposes most people who oppose abortions on the grounds that—to them—it is murder neither know nor care what the Criminal Code says or means.

25. There are two aspects to this issue to be considered. One is the secular, and the other is the theological. AMCAL has this to say about these issues.

#### *The embryo is not a human being*

26. Taking first the non-theological question, it may be said that belief that abortion is equivalent to murder depends on the idea that a recognizably human creature is produced, at conception, which may in turn arise from an over-simplified view of human biology.

27. AMCAL shares the view of many modern embryologists, who claim that what appears at conception is only a *potential* human being. It is true that at each conception a quite unrepeatable living object appears. But it is unrealistic to assign to the fertilised egg, because of its exceptional genetic structure, the importance implied by those who claim that any aborted embryo

"might have been another Beethoven". Nature is so prolific that the remark seems meaningless. For every egg that is fertilised hundreds are wasted, and for every sperm that fertilises hundreds of millions are wasted. The sperm production of one man in one year embodies more genetic diversity than is represented by the entire living population of the world.

28. During the first weeks of pregnancy, the embryo recapitulates the process evolution: resembling in turn a fish, a reptile, a bird and then the lower mammals. At 12 weeks, the normal deadline for abortion, even an expert would have difficulty distinguishing the human embryo from that of an ape.

29. The embryo has yet to acquire the physical equipment upon which human consciousness depends. There are only a few million cells in the two- or three-gram 12-week brain—which is crucial, because it seems to be numbers of braincells which really set us off from the higher apes. Their brains are almost exactly the same as ours in construction and operation, but contain around 5,000 million cells in the surface-layers instead of 7,500 millions.

30. It is only around 16 weeks that the unborn child acquires brain-cells in this sort of number. This stage is too late for any abortion except one to save the mother from a very direct threat to her life.

#### *Is the fertilized egg a soul?*

31. The matter of when a human being begins to exist is not really so clear-cut. Theologians, as well as scientists, have been concerned with the question for centuries: asking themselves at what moment can it be said that the soul appears. As it happens, it was only in 1869 that the Catholic Church finally adopted the doctrine that the soul appears at conception. St. Augustine thought that it appeared 40 days after conception in the case of a male embryo and 80 days after conception, in the case of a female. Aquinas seems to have thought that it appeared at "quickening" (around 18 weeks).

32. Nearly one in ten conceptions ends in spontaneous abortion during the first days of pregnancy—usually noticed as a "late period". Logically the doctrine that the soul appears at conception would demand a christening ceremony in this event. But it has never been church custom.

33. Enough has now been said, it is hoped, to establish the point that there is wide scope for reasonable, responsible, and God-fearing people sincerely to hold entirely different views on the moral issue of whether abortion is murder or not. AMCAL declares that those who hold the affirmative view—and whose personal lives would therefore never be touched by abortion—do not have the right to impose on others who do not share their moral and theological views, the consequences of those views.

*The embryo fetus feels no pain*

34. Perhaps the most emotional issue which has been brought into the abortion debate is the suggestion that the unborn child may suffer pain when the operation is performed.

35. Analysis of the development of the unborn child—known as an embryo until twelve weeks after conception, and then as a fetus—seems to make it clear that the suggestion is quite invalid. The question of pain depends on the degree of development of the nervous system at the time when the abortion operation is performed. This is usually at eight to ten weeks. (Only in the gravest of medical emergencies would an abortion be performed at 18 weeks, and the proposed reforms would not likely alter that situation.)

36. At eight to ten weeks, the embryo's nervous system is very immature. The human nervous system works by transmitting electrical impulses along chains of cells—and this depends on the nerve-lines being insulated from surrounding body-cells by sheaths of specialised tissue called myelin. Myelin does not begin to appear around the nerves until 16 weeks after conception. It then grows rather slowly not becoming quite complete until more than a year after birth. Without it, the nervous system cannot work fully—any more than a telephone exchange could work with no insulation on its cables—and so it is hard to see how an eight-to-ten week embryo could feel pain.

37. Late abortions would still require for their justification, as they do now, some emergency like a deteriorating heart condition which might kill the mother during labour. (One reason for this is that the abortion operation is much more complicated when delayed.) But even this question is not really relevant, because late abortions have to be performed under a *general anaesthetic which crosses to the fetus*.

## PART II — SPECIFIC PROPOSALS

*A. Therapeutic abortions should be available when the physical or mental health of the mother is endangered.*

38. AMCAL would be very pleased to see the Criminal Code amended in the manner proposed in the relevant part of section 1 of Bill C.40 introduced by Mr. Wahn, M.P., during the First Session of the Twenty-Seventh Parliament (First reading, January 24, 1966). This raises the questions of what is meant by "health of the mother"?

Since questions of health would, inevitably, have to be determined by doctors, AMCAL believes that it would be both appropriate and desirable, if the law were reformed, for Parliament to provide the medical profession with clear guide lines to ensure that their intentions are carried out. Doctors should be given to understand, therefore, that in considering the sequela of a problem pregnancy on a woman's health, they should take fully into account her total environmental life situation, and not just the question of her survival of childbirth. Thus, to illustrate, abortion should be allowable if the woman's capacity as a mother would be severely overstrained by the pregnancy or by the necessity of rearing another child.

*B. Pregnancy resulting from rape or incest should be terminable.*

39. AMCAL's case for this proposal rests upon the proposition that if the woman concerned wishes her pregnancy terminated, none should deny her right of access to safe and competent abortion.

*C. Pregnancy should be terminable when there is a high probability of retardation or malformation of an unborn child, or when a serious hereditary disease is present.*

40. So rapid have been the advances in medical science in recent years, in the disciplines of fetology and embryology, that it is now more readily possible than before for doctors to diagnose and predict abnormalities. There is not space in this Brief to discuss this in depth, and AMCAL will therefore take it as read, since the Government has access to the same sources of medical information. Instead, the issue that will be considered here is that which naturally arises: what use is to be made of the new techniques of chromosomal analysis and other developments?

41. AMCAL's view is straightforward: it is the function of the medical profession to diagnose deformities or other defects and, where cure is not possible, to predict in good faith the degree of probability of the defect or seriousness of the consequences so that the parents in their turn may take the decision, in the light of the medical information and advice, whether or not to allow the pregnancy to continue. This statement of course assumes that the accurate diagnosis of prognosis could be made soon enough for a therapeutic abortion to be carried out safely, and that the risk of retardation or malformation would be sufficiently great, in the eyes of the parents, as to warrant this course of action. (Note: there are 650,000 mentally retarded Canadians today).

#### Controls.

42. Part II would be incomplete without some mention of AMCAL's ideas about appropriate controls. As proposed in Bill C-40 (mentioned in paragraph 15), abortions should only be performed by or under the supervision of a duly qualified medical practitioner. Whether it be done in a hospital or private clinic should, in AMCAL's view, be a matter for the medical profession to consider, since their licensing authorities have the power to set and enforce standards of quality and competence. It should suffice, however, for the doctor performing the abortion to have the written concurrence of one other duly qualified medical practitioner, although he should naturally be free to seek the approval of as many others as he may wish. This being said, AMCAL stresses that it sees no particular merit in the notion that setting up hospital abortion committees would be a good or desirable thing, since in countries where this practice is followed, it tends to interpose strange doctors between the patient and her personal physician, to the detriment of that relationship, and to cause the committee members to set themselves up as judges without benefit of experience in the due processes of law. The patient, for example, is not usually—in the countries referred to above—given the privilege of pleading her own case.

43. It will have been noticed in this Brief that no mention has been made of the possibility that if the law were liberalized it might be "abused". This notion is sometimes encountered in public debates on the subject. It is usually expressed by men. This is quite

understandable. They may fear their own immortality might be jeopardized by a transfer to women of the power to govern their own procreation. Such fears are groundless: the dynastic instinct, the instinct to reproduce, operates as powerfully in women as it does in men, and perhaps more so. Hence the idea that to allow women access to the ultimate backstop when the usual conception control measures fail would be to allow them to "abuse" their freedom, is nothing short of risible.

#### CONCLUSION

44. AMCAL wishes to emphasize that in promoting its aims listed in paragraph 2, it seeks no more than justice for Canadian women, and for their unborn children. It seeks liberalized permissive legislation, which would apply only to those who seek to enjoy its benefits. Nothing that has been proposed in this Brief would affect the lives or beliefs of those who are content with the law as it now stands; they would go on as before, and no one would say to them (or indeed to anyone else): "you may not have this child". Let there be no misunderstanding on this crucial point.

45. To sum up, AMCAL offers this Brief as an expression of its hope for the future and of its deep concern for the welfare of the Canadian people, especially the women and children.

OTTAWA.

September, 1967.

#### ANNEX TO THE BRIEF OF THE ASSOCIATION FOR THE MODERNIZATION OF CANADIAN ABORTION LAWS

1. The total number of abortions performed in Canada is estimated to number as many as 300,000 annually. Considering that this figure approaches the number of live births in this country—386,000 in 1966, and that more than half of these abortions are performed on married women by persons with little or no medical training, it is clear that this is a most pressing social emergency which endangers the structure of a very large number of Canadian families.

2. If Canada's criminal Code is amended to permit therapeutic abortions, this threat to family structure will be eliminated in some cases, but in other cases will still exist. These latter cases consist of women who suddenly

find themselves the sole supporter of their family, unmarried mothers, women with a fear of child-bearing or other fears which are magnified at such a time. While Canada's prenatal care is of a high standard, most Canadian doctors have little time to assist such prospective mothers.

3. In this connection a study has been made of the work of the Mothers' Aid Centres of Denmark, and it has been found that it is constructive in nature and essential to the nation's social welfare. The case of any Danish mother refused a therapeutic abortion is given sympathetic study, with the offer of the necessary aid by a panel of specialists in law, medicine and the social sciences. In such cases 81% of the Danish women bring their child to full term. Only 10-15% of legal abortions are performed in Denmark without the assistance of Mothers' Aid Centres.

4. A social service with such commendable results bears emulation in any country with a similar family structure. While in Canada, some aid such as Mother's Allowance is given to widows and their children, help on such a scale, it is believed, has never been considered, although the need exists.

5. If centres similar to those in Denmark were established in our larger cities, possibly in conjunction with the proposed family planning centres, Canadian women with a problem pregnancy would receive a sympathetic hearing, wise counsel and material assistance. Many would then not resort to an illegal abortion, risking life, health and family welfare. It is important that one medical practitioner from such a centre be one of the two physicians charged with the decision to grant an abortion so that the community, and women in particular, will give it their full trust. The Association for the Modernization of Canadian Abortion Laws submits this report to the Canadian government and the provincial Departments of Health with the recommendation that such clinics be established to ensure the health of Canadian womanhood, and to end the human destruction which now weighs so heavily upon us.

6. The following are EXCERPTS taken from the pamphlet *Abortion Legislation in Denmark* by Vera Skalts and Magna Norgaard.

7. In Denmark, termination of pregnancy has been the subject of special legislation since 1937. In spite of the general criminality of abortion, it had been recognized for many

years as lawful for a doctor to terminate a pregnancy in special cases, if such intervention was necessary to avert serious danger to the life or health of the pregnant woman. This was the so called medical indication. In this respect, however a great amount of uncertainty prevailed among physicians and highly different attitudes toward this medical indication were adopted.

8. It was this general uncertainty about the legality of abortion under the medical indication which in 1932 motivated the Medico-legal Council to recommend to the Ministry of Justice that there be undertaken a general review of the question of whether termination of pregnancy should be permitted and if so, to what extent. The result was the Pregnancy Measures Act of 1937 (Pregnancy Act) which was substantially amended in 1956.

9. Since 1937, the abortion legislation has been subject to review at regular intervals. The application of the Pregnancy Act has been followed closely. Statistical material concerning both the number of legal and estimated illegal abortions has been published, often together with proposals for preventing abortions—legal, as well as illegal.

10. The abortion legislation was to be considered as part of the social legislation of the country but as a preferable alternative to abortion, constructive help and support should be provided to a woman with a problem pregnancy to encourage her to carry through her pregnancy. It is important for these prospective mothers to be brought in touch with organizations capable of giving help and advice during pregnancy and after delivery. In Denmark, this is one of the services provided by the Mothers' Aid Centres. Experience has shown that women with a problem pregnancy are often desperate to obtain an abortion and thus are only interested in applying to an organization which offers promise of an abortion as well as offering assistance during pregnancy. For this reason, it is important that the Mothers' Aid Centres participate in the decision on the request for abortion. The Centres have played an important role in the development of abortion legislation and today hold a central position in the administration of the Pregnancy Act.

11. From the beginning of this century a private organization called "Mothers Aid" assisted single mothers in Denmark, especially in Copenhagen. Its work attracted a good

deal of attention and ultimately was expanded by the Mothers Aid Act of 1939.

12. Today, eleven Mothers' Aid Centres, under the Ministry of Social Affairs are in operation throughout the country. Financed by the Central Government, their charge, under the relevant legislation, is to provide personal, social, legal and medical assistance and guidance to pregnant women and mothers, as well as to families with infants and young children. The Centres are in touch with a large proportion of all expectant mothers, married and unmarried alike. The applicants are women from all classes of the population and from all parts of the country.

13. The staff of the Centres is comprised of social workers, lawyers and doctors (chiefly psychiatrists and gynecologists). There is close team work between these professional groups. Characteristic of the work is the personal-psychiatric-medical help which is offered concurrently with economic-practical help. The latter also is given in accordance with the principle of self-help.

14. Since 1961, the Mothers' Aid Centres have operated Contraceptive Clinics which are available to all women. In addition, these clinics conduct experiments with new and effective means of birth control.

15. Direct financial support may be granted, often by way of benefits in kind (e.g., for a layette, for clothes for the pregnant woman, for domestic help during pregnancy and after childbirth). The Centres operate convalescent and treatment homes for pregnant women and mothers with infants.

16. A number of special programs are provided for self-supporting mothers (i.e., unmarried, widowed or separated women). The Centres are in touch with ninety per cent of all single mothers. Assistance is granted for maintenance during pregnancy and after childbirth in special homes for pregnant women and mothers, for paternity cases and maintenance orders, and for placing the child in a children's home, in private care, or for adoption. However, no more than approximately three per cent of the unmarried clients of the Mothers Aid have their children adopted by strangers. To the vast majority of self-supporting mothers who keep their children, it is essential that long term assistance be provided in order to make them better suited to establish a good home for their children. Financial assistance for education, training, or retraining is a very

important help to many self-supporters. A small number of such mothers may obtain a flat in special houses with communal facilities—the so-called "collective house"—during the first difficult years after they have become self-supporting mothers. This permits them to settle down and prepare to fend for themselves and their children in the future. The award of a flat in such a house is intended to help during the early difficult period. The Centres consider it quite inadvisable to gather solitary mothers in special blocks of houses for any extended period of time. The flats are, therefore, let for a limited period, normally two years.

17. Women with an unwanted pregnancy constitute about one third of the Centre's clients. The first Pregnancy Act (1937) provided for three indications for abortion: (1) the medical and sociomedical indication—where there was a serious threat to the life or health of the mother, (2) the ethical indication—where the woman became impregnated through certain criminal acts, (3) the hereditary indication—where there was serious danger that the child would suffer from severe hereditary illness or disturbance. It must be noted that the medico-socio indication covers in addition to the purely medical indication other reasons such as chronic malnutrition, exhaustion due to many confinements, suicidal attempts and depression. Before such pregnancies are terminated, the Mothers' Aid Centre must certify that the woman has been given information on the help and support that would be available to her during pregnancy and after childbirth. Thus, an effort is always to be made to avoid abortion. This point of view was considered so important that the effective date of the Pregnancy Act was postponed for 18 months so as to permit the establishment of Mothers' Aid Centres. Both the Pregnancy Act and the Mothers' Aid Act came into effect in 1939.

18. During the first ten years, the number of women who applied to the Centres for legal abortion increased rapidly. Some came on their own initiative and between 80 and 90 per cent were referred by their doctors to the Centres which could give impartial expert opinions on the abortion questions and had better facilities for providing help and support. By 1945 the Pregnancy Hygiene Act required physicians to refer to Mothers' Aid Centres any woman who expressed a desire for termination of pregnancy because of personal, social, or economic problems.

At the Centres social workers determined the kind of economic, social or personal strain under which the woman was suffering so that doctors could decide whether the mother could bear the burden of that strain physically and psychically. In making such determinations the staff always considered the possibility of helping the woman carry her pregnancy to term either by socio-medical treatment or by social, economic and/or personal support. If the Centre found no indication for abortion, they informed the mother but if it were recommended, arrangements were made for the mother's hospitalization.

20. In nearly all of these cases, the hospitals followed the recommendation of the Mothers' Aid Centres.

21. With the passage of the Pregnancy Act of 1956, the medico-social indication was extended to cover mothers who suffered from several physical and psychic defects.

#### *Procedure for Obtaining Abortion Under the 1956 Act*

22. When a woman wants a termination of her pregnancy, the general procedure is for her to apply to the nearest Mothers' Aid Centre. The Centre then begins an exhaustive examination to provide all available information pertinent to the case. Through social and medical examinations, visits to the home, interviews with the mother's husband (possibly the father of the child) the parents or other relatives, if it is a young girl; and through correspondence with the woman's own doctor or with the Institute for Human Genetics at the University of Copenhagen, the Mothers' Aid Centre provides an over-all picture of the mother and her total situation. Attention is continually given to the possibility of averting abortion through social and/or medical measures. In cases where observation is necessary, a special type of treatment and observation home is operated by the Mothers' Aid. These homes are small and comfortable, thus providing very good opportunities for observation of the mothers while decreasing the strain of hospitalization.

23. When the necessary examinations are finished—this requires on the average, about two weeks—the justification of legal abortion is made by medico-social boards which are linked to the eleven Mothers' Aid Centres in the country. There are twenty such boards, each covering a particular geographical area. Each board is comprised of three members: a graduate in law or a social worker represent-

ing the Mothers' Aid, a psychiatrist, usually the one who has been in charge of the medical examination of the patient by the Mothers' Aid, and a surgeon or a gynecologist, normally the doctor in charge of one of the hospital wards, where the operation, if any, is to be performed. Any termination of pregnancy must be unanimously approved by the board. This composition ensures representation of gynecological, psychiatric and socio-legal expert knowledge. The collaboration of the members of each board has proven excellent. In addition, the system has promoted a valuable understanding between the professional groups concerned.

24. There is one exception to the above procedure. This concerns serious illness which endangers the life or health of a woman. In such cases referral to a Mothers' Aid centre is not required, the hospital superintendent being considered competent to decide on termination of the pregnancy. Of the 3,970 legal abortions performed in Denmark in 1963, 3,346 took place on the basis of board decisions, while 624, were decided by physicians.

25. The operation may be performed only by a central or local government hospital or by a private hospital which receives public grants. In Denmark, this means virtually all hospitals.

26. Apart from the cases in which there is serious risk to the life or health of the woman, a pregnancy cannot normally be terminated after the expiration of the sixteenth week of gestation. Under the Pregnancy Act of 1937, this time-limit was three months, but was extended by the 1956 act because of the various factors involved in the consideration of the promptness with which abortion cases should be decided. For example, there must be sufficient time for examinations and observation, if required. Furthermore, it may be useful for the woman to have time to reflect and reconsider the decision to have the abortion performed, since the initial decision may have been made when the feelings of panic and depression during the first few months of her pregnancy were present.

27. On the other hand, intervention should, as far as possible, be made at an early stage of the pregnancy. In recent years, special attention has been given to investigations, carried out in Denmark as well as abroad, which seem to indicate that the risk attending the operation increases considerably as the pregnancy becomes more advanced. This consideration has led to speedier decisions.

28. Since about 1950, between 7,000 and 8,000 women per year have applied to the Mothers' Aid Centres for abortion. In 1964, the number of applications for abortion increased to about 8,200 while the number of live births rose from about 77,000 to 82,400. In the year 1963-1964, sixty-six per cent of the applicants were married, twenty-four per cent were unmarried, while ten per cent were divorced, separated or widowed. With regard to the relative age distribution of expectant mother-applicants, the clientele of the Centres includes many women under twenty years of age and relatively many aged thirty-five and over. This indicates that pregnancy in these age-groups frequently gives rise to special problems and difficulties.

29. The women are from all social strata and from all walks of life, but certain trends seem to be significant. There is a certain predominance of spouses of non-skilled workers, while few women married to farmers are represented. The housing conditions

of many of the women are below the average standard. And finally, a comparison with the average number of children in families of the general population shows that the women who seek abortion have comparatively many children; and many have aborted previously.

30. In Denmark, for a number of years about  $\frac{1}{2}$  of the applicants have been recommended for termination of their pregnancy. In 1963-1964 they numbered 3,739. Included with those refused on abortion, are those who changed their mind. The last few years have shown an increasing number of recommendations for abortion. This may result from the fact that the women and their doctors are becoming increasingly familiar with the practice of the Mothers' Aid Centres, so that only those women who have some chance of getting a favourable recommendation from the Centres apply to Mothers' Aid.

31. The following table gives a breakdown of the bases used for granting applications for abortion in the year 1963-1964.

Indication	1963-1964	
	abs. fig.	%
Medical (made by medicosocial board) .....	3,210	81
Medical (made by hospital superintendent) .....	197	5
Medical Indication, Total .....	3,407	86
Ethical .....	45	1
Hereditary .....	181	5
Combined medical and hereditary .....	151	4
"Defect" .....	87	2
Various combinations .....	65	2
Total indications for legal abortion .....	3,936	100

32. It is of great interest to know what happens to the women who are denied a legal abortion by the Mothers' Aid. At intervals the Mothers' Aid has made follow-up inquiries into the situation of such women through the co-operation of national registrars and hospitals. These studies provide information on the women with whom the Mothers' Aid is not in contact after a denial. Such studies have shown that the applicants

who were refused generally go through with their pregnancy and are in touch with the Mothers' Aid both during the pregnancy and for the first year or so after their child is born.

33. The following table shows what became of 3,700 women whose applications for abortion in 1958-1959 were refused, or who changed their minds.

Course of pregnancy	abs. fig.	%
The child born .....	2,988	81
Aborted .....	498	16
Legal abortion, etc. (at a later date) .....	29	1
Unknown .....	86	2
Total .....	3,701	100

34. These follow-up investigations seem to show that, once a pregnant woman has contacted the Mothers' Aid and has been refused legal abortion, the unwillingly pregnant woman is, nevertheless, normally prepared to go through with the pregnancy. It is relatively rare for her to resort to any other solution. This low incidence of illegal abortion by women who have first contacted the Mothers' Aid and have been denied an abortion, seems to show that the Mothers' Aid program is an effective deterrent to illegal abortion.

35. Even though a relatively small proportion of the women applying to the Mothers' Aid have their pregnancy terminated illegally, the fact remains that there is still a large number of women who fail to consult a doctor or the Mothers' Aid, resorting instead to

illegal abortion. A recent Danish study found that the number of illegal abortions amounted to nearly 15,000 annually—3 or 4 times the number of legal abortions. Despite a slight decrease in the number of illegal abortions (10-14) during the last ten years, the figure is still far too high and presents a serious problem to the national economy and causes such unhappiness and suffering to the mother. Among the proposed methods of dealing with this problem is an expansion of the work of the Mothers' Aid Centres because individual help as given by the Mothers' Aid Centres, it has been proved, continues to be indispensable to a number of women who for special reasons have problems during pregnancy.

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OFFICIAL REPORT OF MINUTES  
OF  
PROCEEDINGS AND EVIDENCE

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Translated by the General Bureau for Translation, Secretary of State.

ALISTAIR FRASER,  
*The Clerk of the House*

HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1967

STANDING COMMITTEE  
ON  
**HEALTH AND WELFARE**

*Chairman:* Mr. HARRY C. HARLEY

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 6

TUESDAY, NOVEMBER 7, 1967

Respecting the subject-matter of  
Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

WITNESSES:

*Representing the Emergency Organization for the Defence of Unborn Children:* Mrs. Olive Heron of Scarborough, Ontario, President; Mrs. Philip L. (Mary) Cooper, Chairman of the Ottawa Committee and Mr. Philip L. Cooper, both of Ottawa.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1967

STANDING COMMITTEE

ON

HEALTH AND WELFARE

*Chairman:* Mr. Harry C. Harley

*Vice-Chairman:* Mr. Gaston Isabelle

and

Mr. Allmand	Mr. Forrestall	Mr. O'Keefe
Mr. Ballard	Mr. Howe ( <i>Wellington-</i>	Mr. Orange
Mr. Brand	<i>Huron</i> )	Mrs. Rideout
Mr. Brown	Mr. Knowles	Mr. Rochon
Mr. Cameron	Mr. MacDonald ( <i>Prince</i> )	Mr. Rock
( <i>High Park</i> )	Mrs. MacInnis ( <i>Vancou-</i>	Mr. Rynard
Mr. Chatterton	<i>ver-Kingsway</i> )	Mr. Simard
Mr. Cowan	Mr. Matte,	Mr. Stanbury—(24).
Mr. Enns		

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

TUESDAY, November 7, 1967.

(7)

The Standing Committee on Health and Welfare met this day at 11:20 o'clock a.m. The Chairman, Mr. Harry C. Harley, presided.

*Members present:* Mrs. MacInnis, Mrs. Rideout and Messrs. Allmand, Ballard, Brand, Brown, Cowan, Forrestall, Harley, Howe (*Wellington-Huron*), Isabelle, Knowles, Matte, Orange, Rock, Simard—(16).

*Other member present:* Mr. Prittie.

*In attendance: Representing the Emergency Organization for the Defence of Unborn Children:* Mrs. Olive Heron of Scarborough, Ontario, President; Mrs. Philip L. (Mary) Cooper, Chairman of the Ottawa Committee and Mr. Philip L. Cooper, both of Ottawa.

The Committee resumed consideration of the subject-matter of Bills C-122, C-123 and C-136.

The Chairman introduced Mr. Cooper who, in turn, introduced the other members of the delegation.

Mr. Cooper made a preliminary statement.

Mrs. Heron explained the aim and purpose of the organization.

Mrs. Cooper added a few remarks.

*Agreed,*—That the documents listed below be printed as appendices to this day's proceedings:

1. The brief from the Emergency Organization for the Defence of Unborn Children. (*See Appendix F*).
2. The brief from Mrs. Heron. (*See Appendix G*).
3. A paper entitled "When Does Human Life Begin?" by Edward L. Kessel, Professor and Chairman, Department of Biology, University of San Francisco. (*See Appendix H*).
4. A paper prepared by the Ottawa Committee for the Defence of Unborn Children, entitled "Abortion is the Destruction of Human Life". (*See Appendix I*).

Mr. Cooper was questioned; he was assisted by Mrs. Heron and Mrs. Cooper.

The questioning concluded, the Chairman thanked the witnesses on behalf of the Committee, and at 1 o'clock p.m., the Committee adjourned to 11 o'clock a.m., Tuesday, November 14.

Gabrielle Savard,  
*Clerk of the Committee.*



## EVIDENCE

(Recorded by Electronic Apparatus)

Tuesday, November 7, 1967

• (11:20 a.m.)

**The Chairman:** Ladies and gentlemen, I would like to start this morning's meeting. We have with us this morning representatives of the Emergency Organization for the Defence of Unborn Children. I will introduce Mr. Philip Cooper and ask him to make a statement and to introduce the other members from his organization. Mr. Cooper.

**Mr. Philip L. Cooper (The Emergency Organization for the Defence of Unborn Children):** Thank you, Mr. Chairman. First of all I would like to introduce the two ladies on my right. To my immediate right is Mrs. Olive Heron who is the President of the Emergency Organization for the Defence of Unborn Children, and to her right is Mrs. Mary Cooper, who is the Chairman of the Ottawa Committee for the Defence of Unborn Children, which is an affiliated organization.

Abortion, we believe, is the most serious question to come before any parliamentary committee in recent years. In fact it is hard to estimate just how serious it is. What is at stake here is our whole concept of justice and the value we place on human life. On a question so important we cannot afford to be stampeded by emotional arguments and we have to beware of the delusion that any proposed change must be good just because it is a change. Here I agree with an editorial that appeared last April in a Toronto newspaper dealing with another subject. It warned against those who rush upon whatever is touted as reform because they like to be considered progressive and to not much notice whether the progress is toward heaven or hell. Ironically this appeared in the *Toronto Globe and Mail* which today is hysterically urging us to jump on the British bandwagon before Britain's new abortion law has even been tested. With regard to abortion, we are sorry the editors have not heeded their own warning.

Although our brief is long our essential argument is simple this: abortion is the

unwarranted destruction of innocent human life. If we can excuse abortion for any other reason than to save a mother's life, then our ideas of simple justice are badly confused. We appreciate the good intentions of doctors who wish to perform therapeutic abortions but therapeutic abortion is never therapeutic to the child. We ask every doctor to realize that when he is confronted by a pregnant woman he has at least two patients and not just one. We recognize that many children are born to mothers and families in poor circumstances. Such families need positive and constructive help, but we are surprised that anyone who calls himself a reformer would advocate abortion for socio-economic reasons. In our view abortion on these grounds is a shoddy substitute for social justice. We believe our principles are clear and grounded in fact. In much of the current discussion of abortion there is confusion over principles and confusion over facts. This is why there is so much uncertainty as to where the pro-abortionists are trying to lead us.

The most serious point of confusion is what is destroyed by abortion. We are unimpressed by witnesses who appear before this Committee and make the bold statement that they do not believe or they do not feel that abortion destroys human life. However strongly anyone may feel on this subject, feelings, we submit, are no substitute for facts and they do not take the place of logical thinking. The evidence of science, modern science at any rate, points conclusively to the view that human life begins at conception. People may appear before this Committee, people may write magazine articles which attempt to evade this conclusion. Some of these people may have impressive credentials; some of these people may be engaged in the life sciences. When experts contradict each other, I think we are entitled as laymen to examine the logic of the positions they take.

We have heard, for example, suggestions that an embryo becomes a human being

when it starts to produce its own hormones. Another suggestion which we heard—I think it was implicit in a brief presented last week—was that it becomes human when it acquires a certain number of brain cells. Dr. Morgentaler, who appeared before the Committee earlier, suggested that a foetus becomes human when it becomes viable. There are others who will tell you that a foetus becomes human only when a baby draws its first breath.

When we get contradictory explanations of this kind and contradictory accounts of what humanity is and what it is not, then I think we are entitled to ask what the logical basis of these definitions is. I think the only conclusion we can come to is that they are arbitrary. There is really no logical and consistent definition as a basis for these definitions. We have produced a fact sheet which has been distributed which examines some of these contentions that try to deny that embryonic life is human.

The first point we wish to establish is that embryonic life is life. The very fact that we can speak of destroying that life, that we can speak of an embryo as something that can die or be killed, is, I think, common sense evidence that it must be alive. You cannot kill what is not alive. We submit also that in terms of biological definition, that is universally applicable biological definition, a human embryo is alive. The essential properties of life, as biologists define it—and here I would refer to the Encyclopaedia Britannica article on biology—are metabolism and reproductive origin. A human embryo has both these properties. Some other definitions also add growth and irritability. A human embryo meets this test, also.

Another point we must be clear upon is that an embryo is not just an appendage or a part of the mother. On the contrary it is a distinct individual. Although it grows within the mother, it has its own distinctive genetic makeup and its own metabolism, and soon develops its own heart, nervous system and other organs. Moreover, its blood may be of a type incompatible with the mother's.

Next, I think we can logically conclude only this: that a foetus or embryo is a human being. If it does not belong to the human species, then to what species does it belong? I think we have to conclude that it does belong to the species *homo sapiens*, and that it is a human being.

Moreover, its genetic mechanisms—its complement of genes and chromosomes—are uniquely human. We hear the argument—and this is more common among those who are unfamiliar with embryology—that they cannot recognize an embryo as human. I might comment on this point and say that we have had calls from people who disagree with our stand and are convinced that a human embryo is, in its first few months, simply a clot of blood, a blob of jelly. If people are labouring under misconceptions of this kind, it is understandable why there is so much confusion on the issue of abortion. Nevertheless, whether or not we can recognize an embryo as human, it does not alter the fact that it is a human being. We have offered this example: if I show you two tapes with no labels on them you will have difficulty—more than that, it will be impossible for you to tell me which one is a Beethoven symphony or which one is a folk music concert; but you cannot tell me because of that, that the two are identical. The fact that gross examination does not always enable us to recognize a thing as what it is, in no way detracts from its real identity. Whether or not a layman at some early stage in human development can recognize the embryo as a human being in no way detracts from the reality of its being a human being.

● (11:30 a.m.)

Now, in fact, by more refined observation, today we can recognize an embryo as human, and here I am referring to a paper which was written by Dr. Edward L. Kessel, Chairman of the Department of Biology, University of San Francisco who points out that during the life processes within the cells of an embryo protein patterns are produced which are peculiar to human life. This is in the earliest stages of embryonic development. Now, even to gross observation, the embryo is recognized as a human early in pregnancy. Now, when I say "early" I mean before most abortions are performed.

When I used to be a newspaper reporter covering court cases in the City of Toronto I remember very vividly an abortion trial in which the woman who had been aborted testified and she lost her composure at the point where she described seeing the baby in the toilet. She did not speak of a blob of jelly; she did not speak of a piece of tissue; she called it a baby. At that point she recognized, perhaps for the first time, exactly what she had done.

We hear the statement made that an embryo or foetus is not an actual human being but only a potential one. Now, this, we suggest, rests on a false assumption about the nature of living things. Being human is not a static condition like being a statue or some other inanimate object, for the human body like the body of every other living thing goes on changing throughout life. We are conceived, we are born as babies, we become older children, adolescents and young adults, then pass into middle age and grow old. There is no logical reason to regard one particular age as more or less human than the others. No one disputes that a baby is a human being and no one disputes that an old man is a human being. By what logical criteria can we say that a child a few weeks before birth is not a human being, or a few months before birth? Again, I suggest that here we are entitled to apply logical tests to these various criteria which people bring forward to shrug off the idea that abortion destroys a human being.

It would be convenient—someone said it would be a very simple solution for a troubling problem—if we could comfort ourselves with the thought that abortion destroys something which is not a human, really. However, I think we have a moral duty to face facts. We have a duty to be intellectually honest about this. An interesting thing which we have noticed in the submissions of organizations like the Canadian Bar Association and the Canadian Medical Association when they talk about the conditions under which abortion would be performed they want to hedge them about with committees, termination boards, consultants. Why do they wish to do these things? We do not have this kind of provision when we are performing an appendectomy or a tonsillectomy. We do not have all this parade and procession for just removing a cancerous stomach. It suggests to me that there is an uncertain conscience about this issue of abortion...

**Mr. Cowan:** A troubled conscience.

**Mr. Cooper:** "Troubled" is an excellent word and, I think, troubled for a very good reason.

To turn to these criteria, a frequently used criterion as to whether a child is a human being is whether or not it is viable. I think here is a clear example of how simple, logical reasoning can show the utter untenability of this criterion. To define a human being in

terms of "viability" is not only arbitrary, but also quite unworkable. Many full-term babies are non-viable because of congenital defects. If we apply the viability criterion we would have to say that they are not human beings. I am sure everyone here can appreciate the absurdity of this conclusion, yet it follows logically from this criterion which is offered to us which says that a child only becomes human when it is viable outside the womb. Moreover, viability is a relative thing; even a year-old infant cannot survive without special care by its mother or mother substitute.

This, again, as I have said, shows the need to think critically when people come before us and make bold statements: "I do not believe an unborn child is human"; "I do not feel an unborn child is human". There is a danger if we rely simply on illogical feelings; feelings may take us to a point we do not wish to go—not our own feelings, but the feelings of other people. It took the white inhabitants of this country some years to appreciate that the aboriginal inhabitants—the Indians—were fully human themselves. This idea was not necessarily an expressed idea but it has been expressed. People have noted that the Chinese, for example, spoke of Europeans as being not quite human and this feeling was reciprocated by many travellers who went to China from Europe and, as we suggest in our brief, the whole basis of the argument that says an unborn child is not a human being is essentially the same kind of psychology which lies behind race prejudice; behind the disregard of the rights of strangers.

An unborn child is a stranger and that is why, perhaps, many people are less inclined to appreciate his needs and his rights as a human being, but if we are going to be truly civilized then we have to discipline ourselves. If it requires an effort then we must make the effort to realize that an unborn child is human and must be treated as such.

Now, Mr. Chairman, Mrs. Heron would like to speak to the Committee.

**Mr. Knowles:** Mr. Chairman, before Mrs. Heron begins, I may have missed it, but I did not get Mr. Cooper's identification. He introduced his...

**Mr. Cooper:** I am the writer of the brief; I have no other title than that.

**Mr. Knowles:** You are not an officer of the organization?

Mr. Cooper: No.

• (11:40 a.m.)

**Mrs. Olive Heron (President of the Emergency Organization for the Defence of Unborn Children):** Mr. Chairman, I would like to speak by introducing our organization. We started in September in Toronto and we now have five affiliates, in Ottawa, Burlington, London, the Province of British Columbia and Montreal. We have approximately 200 to 250 members across Canada at the moment. Our aim and purpose are to protect the unborn child by protesting any amendment to Canada's Criminal Code which would widen the ground for taking his or her life through abortion.

Argument states that a woman should be able to use her own body as she pleases. This is nonsense. For one thing, we believe that the foetus is a separate entity and is not a part of her body. Science will bear out that the unborn child has its own organs, heart-beat and bloodstream. Even so, there are many things that a woman is not allowed to do with her body. She is not allowed to commit suicide; she is not allowed to commit an indecent act in public; she is not allowed to lie down in the road and block traffic; and she is not allowed to engage in prostitution in this country.

As for the argument that legal abortions cause an increase in illegal abortions, we should note that after abortions were legalized in Denmark in 1939, during the next 10 years there was a tenfold increase in legal abortions but also a fourfold increase in illegal abortions. I believe the rights of the individual begin in the womb. This includes the right to live. Everyone in a civilized society has the obligation to respect that right. The legalization of abortion in Canada would cause our great country to step backwards into time. We would enter a second "Dark Ages", where human life counted for little. For abortion, after all, is only slightly removed from infanticide.

**Mrs. Mary Cooper (Chairman, Ottawa Committee, Organization for the Defence of Unborn Children):** It was stated here last week that women are the victims of injustice by men, but we believe the real issue is injustice toward unborn children by adults. It has been suggested, rhetorically, I suppose, that woman be given an opportunity to vote on this issue of abortion. I wonder what would happen if we could give the vote to those

persons born defective or unwanted. I am thinking of the many children in my own neighbourhood who have been adopted.

We have heard a great deal about "unwanted children", but I think the question should be: Unwanted by whom? Our research indicates that most so-called unwanted children in this country do in fact find good homes. We have here some adoption figures for Ontario which bear this out. In 1962 there were 5,813 babies born out of wedlock and 5,404 adoptions. This says nothing of the many other children placed in good foster homes. Recent studies in Quebec show that more and more unwed mothers are asking to keep their children. The percentage has increased from about 35 per cent at the beginning of this decade to about 70 per cent today. We think it should be made easier for them to do so by providing such things as day nurseries.

We also need a more positive approach toward defective children. A society that cannot accept and help the defective child lacks compassion as well as justice. We have heard about the so-called right of a defective child not to be born. I would like to read this comment by Dr. André Hellegers, Associate Professor of Gynaecology and Obstetrics, Johns Hopkins University:

It is the parents who do not want an abnormal child; there is no evidence that a fetus does not want life and it cannot be consulted in the matter. There is no evidence that those who have congenital anomalies would rather not have been born. Such evidence might exist if suicide were more common among them, but it is not.

So while it is easier to feel that abortion is being performed for the sake of the fetus, honesty requires us to recognize that we perform it for adults.

**The Chairman:** Thank you very much, Mr. and Mrs. Cooper and Mrs. Heron.

Before we proceed to the questioning of the witnesses is it agreed that today's brief, the two statements that have been partially read into the evidence and the short brief by Mrs. Heron become part of today's record?

**Some hon. Members:** Agreed.

**Mr. Knowles:** Mr. Chairman, I agree; but—and I say this carefully and with respect—I do wish the third paragraph of Mrs. Heron's brief were not there. These people have a case to make and we should listen to

it, but to say that those who favour abortion are somehow adopting Hitler's approach does not lead to good discussion. Would Mrs. Heron not agree that that reference might have been better left out?

**Mr. Cooper:** Mr. Chairman, if I might comment on that, we make the statement in our brief that no one is responsible for murder or for any other crime unless he is aware of the quality of his act. We are quite sure that those who advocate the broadening of the abortion laws have no intention of committing murder. Nevertheless, we have to be concerned with the effects. We are all aware of the saying: "The road to hell is paved with good intentions". We do not dispute the intentions of these people. I know many of them personally. They are compassionate citizens, and I admire their compassion, but in spite of their intentions think that what they are proposing will produce effects which our society will regret.

**Mr. Knowles:** Mr. Chairman, that is an arguable point; and it is arguing by assertion. I am merely saying, as nicely as I can, that I do not think it helps the argument to say that those of us who favour abortion are adopting the ideas of Hitler. If the witnesses do not wish to qualify it...

**Mr. Cooper:** It is just the actions.

**Mr. Knowles:** I beg your pardon?

**Mr. Cooper:** Just the actions; not the ideas.

**Mr. Knowles:** Mr. Chairman, I have made the point. If the witnesses do not wish to qualify it that is their right.

**Mr. Forrestall:** Mr. Chairman, I have an observation on a program shown last night on—and I hate to mention the word—the CBC.

**Mr. Brand:** Wash your mouth out with coffee!

**Mr. Forrestall:** Is that the film that we were to have seen and which, for some technical reason, we were denied access to?

**An hon. Member:** Yes, it was.

**The Chairman:** What appeared on the CBC program, was, I think, excerpts from the film that we did not see. It is the same film.

I have been trying to get in touch with the National Film Board. As I think Mrs. MacInnis suggested, we should be allowed to see

the film, but I have not as yet been able to contact the right man.

**Mr. Brand:** Mr. Chairman, That does seem rather strange, does it not, at this juncture—join the CBC and get on the need-to-know list.

**Mr. Chairman:** I would like to ask the witnesses, first of all, if they believe that the Criminal Code should be clarified? I know they mention somewhere in their brief that as it exists there are conflicting sections in it so far as abortion is concerned.

**Mr. Cooper:** We would like to see it amended merely for purposes of clarification. We are not arguing against the clause which permits abortion to save a mother's life, but we believe that this clause is being abused. Doctors admit that this is so, and we believe the clause should be clarified to make it more difficult to abuse it.

**Mr. Brand:** I presume, then, that you would be in favour of clarification of the law to allow legal, therapeutic abortion in those cases where the life of the mother is in danger?

**Mr. Cooper:** Yes.

● (11:50 a.m.)

**Mr. Brand:** This of course goes a little against what is contained in parts of your brief. You did make a statement that doctors say it is being abused. This certainly has not been the evidence before this Committee. I would be interested in knowing where you got your facts.

**Mr. Cooper:** If it has not been the evidence before the Committee it certainly has been stated in the newspapers that abortions are being performed when a woman has been raped, and when she has had german measles, and neither of these reasons are to save the mother's life. It is questionable whether rape is a medical reason at all and if this goes on in hospitals, as has been reported in the papers, then I would call that an abuse.

**Mr. Brand:** Would you agree in the case of rape where competent psychiatric advice suggests that the mother was suicidal as a result and, in the opinion of the psychiatrist, the only way one could save this mother from committing suicide was by a therapeutic abortion?

**Mr. Cooper:** No, I would not for these reasons.

**Mr. Brand:** You would rather have her commit suicide and kill the child as well.

**Mr. Cooper:** No, I did not say that. What I said is that if a suicide is doubtful, the death of a child, if there is a therapeutic abortion...

**Mr. Brand:** We have had evidence before this Committee that this has actually happened, and that is why I brought the matter up. It is not really doubtful; it is in evidence.

**Mr. Cooper:** Has the Committee heard evidence on what other measures have been taken to prevent suicide? I mean, are we just to throw up our hands and say if we let this woman go she will commit suicide.

**Mr. Brand:** I think you are begging the point a little bit, sir. After all, I am sure no competent psychiatrist would recommend this unless he found that the present methods of treating these cases were ineffectual. We must be fair about this.

**Mr. Cooper:** I think the question would come down to whether the woman was emotionally disturbed before she was pregnant.

**Mr. Brand:** That is a decision for the psychiatrist. I am referring to where the psychiatrist has taken in all possible considerations and possible treatments and reached a professional opinion that this is the only method that can be used. That is what I am getting at.

**Mr. Cooper:** The only method that can be used?

**Mrs. Cooper:** If I may interrupt would not a better alternative be to put a close watch on her to make sure that she did not commit suicide?

**Mr. Brand:** I do not think I would ask you, and I would not expect you to know, just what the psychiatrist might suggest as a method of handling a particular case. I am merely putting a case where he has decided there is no other method available at that time.

**Mrs. Cooper:** You mean, in his opinion.

**Mr. Brand:** Yes, and in the opinion of other members of the abortion committee.

**Mr. Cooper:** Well a question that occurs to me is, how do we prevent suicide in prison?

**Mr. Brand:** We are not talking about prison.

**Mr. Cooper:** No, but we are talking about a human being.

**Mr. Brand:** We are talking about a specific case. Do not evade the issue.

**Mr. Cooper:** Nevertheless, there are extraordinary means which can be taken. Is not a fair assessment of what the psychiatrist is saying is that with ordinary means, if we do nothing else for this woman, and let her go, it is believed she will commit suicide.

**Mr. Brand:** Yes, that is correct. It is exactly the same process of reasoning which would lead the doctor to believe, to which you have already agreed, that the woman will die if an abortion is not carried out and, in my view, it is completely valid in both instances.

**Mr. Cooper:** Yes, but we are talking about ordinary means. If we were simply talking about the woman then I would think that "ordinary means" would be the means we would expect to use. However, the life of another human being is involved here. I think when a life of another human being is involved we are justified in examining every possible means of saving both lives. Perhaps we should explore means of preventing suicide in such instances as this. The mere fact that ordinary means are not sufficient does not mean that we should throw up our hands and say, "By all means, let us perform an abortion; let us kill her child."

**Mr. Brand:** When you have no other thing to turn to, what do you do then? Do you still remain adamant in your view? When every possible method has been explored, when every attempt has been made to have this woman keep her baby and yet the decision is made in good faith—and I do not accept the implication in your brief that most of these are not done in good faith—what then?

**Mr. Cooper:** I know in the brief we suggest that many of them are not done in good faith. We do suggest that...

**Mr. Brand:** I would like to change the title of your brief, by the way, and put at the top of it "Vengeance is mine, saith the Lord" because certainly that is the impression I get from it.

**Mr. Cooper:** Well, vengeance upon whom?

**Mr. Brand:** Well, this is the question. Your brief states that it should be a criminal offence to remove any human being from this country with the purpose of killing him. Then you go on to say they must be wilfully responsible and that you would send everybody to jail for life. This indicates a vengeful attempt unfortunately.

**Mrs. Cooper:** If I make a comment, I think the reason that was included in the brief was to show that people with money who could easily take a trip now, shall we say, to England, to have their abortion performed, should not be treated differently from someone who is obliged to remain here and take whatever legal consequences would follow an abortion here.

**Mr. Cooper:** One thing should be emphasized. I think perhaps you are overlooking a statement in the brief which says that modern concepts of justice have no place for harsh punishment. Although we have said nothing about the kind of punishment we certainly have not suggested that people who perform abortions should be sent to jail for life or anything of that sort. The only thing we say about punishment is that it should be a significant punishment, that it should at least register society's objection to what is being done.

**Mr. Brand:** You say "significant punishment", and that is why I suggested "Vengeance is mine". You believe in this law of vengeance.

**Mr. Cooper:** I am not at all suggesting my concept of justice there. I am not giving my views on punishment except to say that six months suspended sentence is a meaningless punishment. I do object most strenuously when a professional abortionist is given that kind of sentence.

**Mr. Brand:** Yes, I am not arguing that point. I am just looking at the context of the whole brief. You state here that it is scandalous when doctors can twist the laws, which no other group is allowed to do. That is quite an indictment. Have you ever bought a lottery ticket?

**Mr. Cooper:** Yes, I have.

**Mr. Brand:** So you too are a felon in this sense.

**Mr. Cooper:** The thing, though, is if the law finds out that I am buying a lottery

ticket, or if the Attorney General finds out, I will stand an excellent chance of being prosecuted.

**Mr. Brand:** But it is all right if they do not find out?

**Mrs. Cooper:** I do not equate buying a lottery ticket with taking another...

**Mr. Brand:** You are breaking the law.

**Mrs. Cooper:** Let us be a little honest here; I think the point we are trying to get at is that people today are wringing their hands and complaining about all the illegal abortions that go on. Now we have the means here to take some action to show disapproval, to discourage, and after all this is what we are getting at—to show that something can be done here and now if we really want to register disapproval.

**Mr. Cooper:** What is the use in saying the law is unenforceable if no one is trying to enforce it?

**Mr. Brand:** You must admit that the same is true of the lottery laws.

**Mrs. Cooper:** Yes, but the same thing is not at stake. I do not think that you can equate the two.

**Mr. Brand:** I do not equate the serious nature of them but just the fact that they both happen to be the law of the day.

**Mrs. Cooper:** Well, fair enough. So we are all judged by the law.

**Mr. Cooper:** I think a fair question is, how many doctors...

**Mr. Brand:** Why indict the medical profession, as you have done?

**Mr. Cooper:** I am not indicting them.

**Mr. Brand:** You are indicting the medical profession and I take great umbrage from this.

**Mr. Cooper:** I have a profound respect for the medical profession. Our own group includes members of the medical profession. If it is an indictment I would say against anyone it should be an indictment against the legal profession.

**Mr. Brand:** I noticed that too.

**Mr. Cooper:** In the United States the question has been asked: How many doctors performing therapeutic abortions in hospitals

have been prosecuted? The answer I have is, none. But you can ask the question "How many churches have been prosecuted for running bingos?" and the answer to which is "Quite a few."—because it is not a parallel situation.

**Mr. Cowan:** Touché.

**The Chairman:** Is that your last question, Dr. Brand?

**Mr. Brand:** Well, touché, up to a point only. I think I have made my point. I do not know if it is worthwhile asking more questions. Anyway, I do not have further questions at the moment.

**Mr. Forrestall:** Mr. Chairman, Dr. Brand has gone into the area that I had first noted, concerning the morality of the medical profession. To extend it slightly further, are you prepared to make a flat statement that you do not accept the moral attitudes towards abortions by doctors and recognized accredited hospitals?

• (12:00 noon)

**Mr. Cooper:** We are making no statement about the moral attitude of the doctors. The thing we have to recognize about doctors is that they are human beings. I am a former newspaperman. Some of the most shady characters I have known have been newspaper people, but in saying that, I am not indicting all newspaper people any more than I am indicting the whole medical profession in saying that the odd doctor follows questionable practices. I think it is unrealistic to pretend that any group consists purely of white sheep. If that were true then probably you would not need any laws against anything.

**Mr. Forrestall:** Then let us qualify and restrict it to that segment of the medical profession involved with the child in this particular context—those in hospitals who day by day or week by week have to make decisions. I say this so that you will not misunderstand what I am saying. I am opposed to abortion, but I am also quite prepared morally and mentally and in every other way to accept the moral attitude of doctors in our hospitals where from time to time decisions of this nature have to be made. So, I ask again whether or not your views would be such as to accept, not by way of apology for anything that is in the brief but because you skirt around it, that their

moral approach to this is a very serious problem.

**Mr. Cooper:** If there is any suggestion or if anyone reads into the brief any suggestion that we are indicting the medical profession, I must say that that is a most unfortunate impression for any doctor to receive as it is the last impression we have tried to convey. Our own organization includes medical men and if we gave any impression like that we would be indicting them also.

**The Chairman:** When you are talking about the medical profession I suppose you are really talking about the representatives of the Canadian Medical Association who do not necessarily reflect the views of all doctors because there is a group coming before us who will oppose them.

**Mr. Forrestall:** Yes, exactly.

**Mr. Cooper:** One thing that has not been pointed out, although it is mentioned in the brief, is that the Hippocratic oath explicitly forbids abortion. I would like to know what doctors feel about violating that oath. Do they think they are demonstrating their own high principles when they do that?

**Mr. Forrestall:** Being not of the medical profession may I be permitted to say I would suspect that every doctor who has performed an abortion finds it somewhat distasteful no matter what the circumstances. I would like to not pursue that because apart from the eminent medical people that we have on this Committee, including our Chairman, it is a little bit out of our line at this particular stage. Then let me just ask you this, in the general sense. Do you, in your approach to this problem, in your own minds order the value of life?

**Mr. Cooper:** Order the value of life?

**Mr. Forrestall:** Yes.

**Mrs. Cooper:** What do you mean by that? Order?

**Mr. Forrestall:** Well, you place great stress and emphasis in many parts of your brief on the viability of life from the moment of conception. Do you say that—

**Mrs. Cooper:** We do not say it is viable at conception. It certainly is not viable then.

**Mr. Forrestall:** Would you say it has life?

**Mrs. Cooper:** Yes.

**Mr. Forrestall:** I am sorry. Those words are synonymous in my mind. Do you order life? At what point do you say in your own minds that the unborn life is more important than the mother's?

**Mr. Cooper:** At no point.

**Mrs. Cooper:** At no point.

**Mr. Forrestall:** Well, then it would be the inverse of that.

**Mrs. Cooper:** They are both on a par and one is just as important as the other. The point that we are trying to get across is that the baby is not just a thing to be done away with but that they are both of equal importance.

**Mr. Forrestall:** Then, in other words, you do not order life?

**Mrs. Cooper:** No, we do not order life, if that is what you mean by that.

**Mr. Forrestall:** Then I again must come back to this, Mr. Chairman, and I am sorry I will not go on with the other two questions that interest me. Who, if not the doctor on the case, must make the decision?

**Mr. Cooper:** Which decision?

**Mr. Forrestall:** The doctors, you said, are—and I think by their own admission the other day are—from time to time violating some written law. Somebody has to make the decision which life must go for whatever reasons there might happen to be. What would you do? Take that decision out of the hands of the medical profession?

**Mrs. Cooper:** We say that in the present law you can take the life of the child to save the life of the mother. We do not argue this point.

**Mr. Forrestall:** The question I am asking you is who should make that decision?

**Mrs. Cooper:** Apparently there is now—is there not—a committee of three doctors to make this decision.

**Mr. Forrestall:** Do you accept that as a provision?

**Mrs. Cooper:** Yes. We do not argue with this point. This point is law now—to save the life of the mother. We do not argue this point at all.

**Mr. Forrestall:** Well, then, I am sorry I am up against a mental wall. I have just now lost the total reason for your brief. Did you have the impression that we are about to...

**Mrs. Cooper:** Widen the laws.

**Mr. Forrestall:** Widen the laws to the point where there is...

**Mrs. Cooper:** We understand that you are going to do it on grounds of mental and physical health. This is not necessarily for the life of the mother.

**Mr. Forrestall:** I was not aware that we had got to that stage at all.

**The Chairman:** No. We are really considering the topic of abortion and the bills before us are three varying bills.

**Mr. Forrestall:** Well, one final question, Mr. Chairman. Could I ask one or all of those before us this morning to expand a little on their point of clarification of the existing law? Could you be specific in 10 words or 20 words? What would you say?

**Mr. Cooper:** That the law should permit abortion only where necessary to save the life of the mother.

**Mr. Forrestall:** I will end on that point of view.

**Mr. Cooper:** Mr. Chairman, may I make another comment with regard to Dr. Brand's proposition. I do not want to discount what he puts before us at all. I think he has stated something very serious and that perhaps the Committee might take away a false impression of what our position is on this. I would say that if it were dead certain that absolutely nothing you could do would prevent a woman from committing suicide, logically you would have a good case for therapeutic abortion, but I do insist on real true certainty. If there is some way to provide real certainty, that absolutely nothing else could be done for a woman, and I mean absolutely nothing else, I would say that in those circumstances you would have a case for therapeutic abortion. But I would ask the Committee to keep these limitations in mind.

**Mr. Allmand:** Mr. Cooper, when you were asked at the beginning whether you represented the society here today you answered that you only wrote the brief. Does this mean that you are not a member of the society?

**Mr. Cooper:** I am here in two capacities. I am an Ottawa representative of the Emer-

gency Organization for the Defence of Unborn Children. I am also a member of the Ottawa Committee for the Defence of Unborn Children.

**Mr. Allmand:** You are not just a public relations man who wrote the brief?

**Mr. Cooper:** Oh, no.

**Mr. Allmand:** Fine. There have been many allegations put to us that there are a large number of illegal abortions in Canada today. I think most people accept the fact that there are a large number of illegal abortions being performed. What do you think the answer should be to these illegal abortions and the apparent sentiment that it is not wrong? Right now we have a very stiff law but these abortions are taking place. I think you would agree that the fact of these abortions taking place in extreme circumstances is an evil; and that any society should try to do something about women dying, bleeding to death—you have heard the circumstances. What, therefore, should be the answer to the large number of illegal abortions?

• (12:10 p.m.)

**Mr. Cooper:** I do not think there is any single answer and I think we have to beware of the idea that you can find a cheap answer such as legalizing abortion and broadening the grounds for it. Experience in other countries where this has been tried shows this has not reduced the number of illegal abortions. On the contrary, it creates a climate which encourages abortion. I think we have to find out and ask ourselves why women want abortions. In some cases there are economic reasons. The obvious answer in these circumstances would be an economic answer; in other cases, perhaps the fear of shame. In that case I think we have to do something very seriously about improving the status of the unwed mother. We say there is no simple solution, but the supposed solution of broadening the grounds for legal abortion certainly is not it. It has not worked in any country in the western world that we know of. There is no reason, I believe, that it would work here, and I think it is significant that witnesses that have come before this Committee now are admitting that we will not eliminate illegal abortion by broadening the grounds for it.

**Mr. Allmand:** As it is now it appears the law has not been enforced and it almost seems that there is no consensus to enforce the law. Now, do you not think if the law

does not have the consensus of the population that it is better to not have that law? Even if we accepted that abortion was morally wrong, would you not think it would be better to combat that evil of abortion by public moral persuasion rather than by public criminal law?

**Mr. Cooper:** Well, one of the best means of public persuasion is the law. This is the case with civil rights. If we adopted the attitude that if there is no public consensus there should be no law, then we would have to say that the move to integrate schools in the southern United States was the wrong move because we have to say, until recently at any rate, there is no consensus in favour of integration. But it has been held generally in the civil rights movement that the law has an educative effect; that if the law condones a certain abuse, in the minds of many people this is sufficient reason for them to think that the practice must be all right.

**Mrs. Cooper:** Could I say something here from a woman's point of view? I rather think that we will get this climate of abortion. In other words, you may find unmarried girls who perhaps would not even consider abortion. They inherently feel that it goes against natural justice. Now, if the laws are broadened to include all sorts of other reasons for legalizing abortion then you are going to get this girl thinking to herself, "Well, now the law says it is all right in certain cases," and then she could build up for herself a very good case that really it is not such a good idea for her to go ahead and have this baby. So I think you are going to increase the number of people who will seek abortions because the law commits it for some. "If it is all right for them, why is it not all right for me?" And because they cannot get one legally if the grounds are not broad enough to incorporate their particular problem, then I suggest they are going to secure an illegal one, whereas perhaps prior to this they would not have considered such a step.

**Mr. Allmand:** But for years now we have had a very stiff criminal law opposing abortion and it is my understanding that the number of abortions have increased, let us say, since the end of the war. If the law had an educational effect in itself, why would that happen? In the United States we saw the example where, to combat alcoholism, they introduced a law of prohibition but as a result of that law there was more criminal activity carried on and the evil was not real-

ly solved. It was felt that the solution was by other means than the public criminal law. Do you not think that sometimes you create more problems to combat the real problem, which is abortion, by making it a criminal law?

**Mrs. Cooper:** I suppose in the case of drink one has to agree. This did seem to happen but I think when we look to other countries as we mentioned earlier, like in Japan, Denmark and Sweden, legalizing it did not curb illegal abortions because they rose at an even higher rate than did the legal ones because you will always find the woman who wants complete privacy in this matter. If she is carrying a baby that is not her husband's she is not going to be very anxious to go to some hospital and make all her business public.

**Mr. Allmand:** That is all, Mr. Chairman, but I just want to say a word about it very briefly. I think that the group that came here this morning have presented a point of view that was not brought before the Committee thus far and I think that they should be congratulated on their brief. Some people here have tried to accuse them of implying things in their brief. I do not think these are really implied and I think they bring a point of view that we should have brought before us and I congratulate them for that.

**The Chairman:** Fine. Mrs. MacInnis?

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Cooper, am I correct in stating that you believe in a degree of abortion?

**Mr. Cooper:** I do not know what "a degree of abortion" means.

**Mrs. MacInnis (Vancouver-Kingsway):** Well, did you not say that you did not quarrel with the law which states that an abortion can be given to save the life of a mother?

**Mr. Cooper:** We are not saying we agree with it; we say we are not arguing against it.

**Mrs. MacInnis (Vancouver-Kingsway):** Do you believe in it yourself?

**Mr. Cooper:** Today that is becoming a dead issue.

**Mrs. MacInnis (Vancouver-Kingsway):** It may be dead but before it dies I would like to have your opinion.

**Mr. Cooper:** I will say this: it is defensible. I think it is defensible to say that it is

possible to take one life to save another life. I think that is a logically defensible position. To take a life for some lesser reason I think is logically indefensible.

**Mrs. MacInnis (Vancouver-Kingsway):** You would accept that. You would say that it is right to take a life to save another life. That is the position in which you believe.

**Mr. Cooper:** Well, for example, in the case of self-defence—killing somebody in self-defence. That is taking one life to save another.

**Mrs. MacInnis (Vancouver-Kingsway):** All right, but let us take this one case. Is it right in the case of a mother who would die if she did not have an abortion. Is it right from your point of view?

**Mr. Cooper:** I think we are not objecting to that in the least.

**Mrs. MacInnis (Vancouver-Kingsway):** But do you believe in it yourself?

**Mr. Cooper:** I think that is quite defensible.

**Mrs. MacInnis (Vancouver-Kingsway):** Well, I am not going to get around that.

**Mr. Cooper:** Well, you are asking me whether ultimately it is right; whether the end justifies the means.

**Mrs. MacInnis (Vancouver-Kingsway):** All I am asking you, Mr. Cooper, is do you believe it or not. Now, tell me either one or the other.

**Mr. Cooper:** I honestly do not know. It is a problem.

**Mrs. MacInnis (Vancouver-Kingsway):** You do not know whether you believe it or not. All right, then if you do not know whether you believe it or not, would you allow the law to be such that it would permit those who do believe in wider grounds of abortion to have those wider grounds?

**Mr. Cooper:** No, I do not think that is defensible at all.

**Mrs. MacInnis (Vancouver-Kingsway):** Even if it were not compulsory on people who do not believe in it?

**Mr. Cooper:** It would always be compulsory on the child.

**Mrs. MacInnis (Vancouver-Kingsway):** Let us talk about this business of the people who

want to apply for the law. Would you keep away the possibility of a person getting an abortion on wider grounds even if it were not compulsory on anyone?

**Mr. Cooper:** Yes, I would. Let us look at abortion this way: I think a capsule definition of abortion is prenatal infanticide. There are people who practice infanticide...

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, but do not let us go afield.

• (12:20 p.m.)

**Mr. Cooper:** This is not going afield at all. We have an editorial in the *Globe and Mail* about the rights of a child that is one day old. This appeared just last week. It berates parents who would not allow this one-day-old baby to have a blood transfusion. It talks about the rights of the infant—one day old. But a few days earlier the *Globe and Mail*, according to what I have read in its editorials recently, would say the child has no rights whatever. Now, I suggest that this distinction is a thoroughly illogical distinction, and that is why I think the distinction between abortion and infanticide is inherently an illogical distinction.

**Mrs. MacInnis (Vancouver-Kingsway):** All right. Now, may we come back to my question? Am I right in saying that you would not permit a broadening of the law to allow people to apply for abortions on certain wider grounds?

**Mr. Cooper:** I would object to that.

**Mrs. MacInnis (Vancouver-Kingsway):** You would object. Would you make it impossible for Canadian women to go to another country to get a legal abortion if they could not get it here?

**Mr. Cooper:** Yes, there is something in our brief concerning that. What it would have to be would be to make such an offence a kind of conspiracy, I would suppose.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, but you would favour making a law to prevent Canadian women going elsewhere to get a legal abortion?

**Mr. Cooper:** Yes, for the same reason I would prevent a Canadian woman from taking a two-day-old child abroad to have an infanticide performed.

**Mrs. MacInnis (Vancouver-Kingsway):** If there is a high risk that a woman will give

birth to a seriously deformed child, physically or mentally, would you force her to give birth to the child?

**Mr. Cooper:** Yes, I think that is no ground whatever. Logically, if you are going to allow a woman to have an abortion on those grounds, then logically you must allow her to have euthanasia performed on those grounds after the child is born.

**Mrs. MacInnis (Vancouver-Kingsway):** Now, I would like to ask about Fact No. 5 in your Facts Bulletin No. 2. The 5th fact,

A recent issue of *Time* magazine reported that 56% of Stockholm-area legal abortions occur after the 16th week of pregnancy, but often the operation is not performed until the 24th week—producing live babies that sometimes cry for hours before dying.

I would like to ask if that is indeed a fact.

**An hon. Member:** You had better ask Mrs. Heron about that.

**Mrs. Heron:** We have not been to Stockholm but we understand this is a fact. *Time* magazine printed this as a fact.

**Mrs. MacInnis (Vancouver-Kingsway):** *Time* magazine. You did not verify this before putting it down as fact number 5?

**Mrs. Heron:** We checked it in a medical journal.

**Mrs. MacInnis (Vancouver-Kingsway):** Was it checked with a doctor?

**Mr. Cooper:** We checked with doctors here and in Toronto. One of our medical advisers in Ottawa as well as one in Toronto told us that it is not uncommon for an aborted infant to cry following an abortion.

**Mrs. MacInnis (Vancouver-Kingsway):** I find it a little difficult to believe that any reputable medical man would permit a live baby to cry for hours before dying.

**Mrs. Heron:** We did not say "for hours."

**Mrs. MacInnis (Vancouver-Kingsway):** It says "for hours", I am quoting from your facts bulletin No. 2.

**Mr. Cooper:** Is it any better if it only cries for ten minutes?

**Mrs. MacInnis (Vancouver-Kingsway):** It says, "that sometimes cry for hours before dying." I would like to suggest that issuing

something like that, which I think is simply not credible, is hardly a good idea for advancing a case, which I believe you have.

**Mr. Cowan:** Mr. Chairman, might I ask whether that article appeared in the *Canadian Time* or the *American Time*? The *Canadian Time* would be more accurate.

**Mr. Knowles:** The *Liberal Time*.

**Mr. Brand:** In all fairness, Mr. Chairman, I think that sort of statement is absolute nonsense. If they have some medical evidence to prove this I think it should be tabled. If it is not, I do not think statements like this should be brought before this Committee.

**The Chairman:** Surely the witness is merely quoting from a magazine and the magazine has to . . .

**Mr. Cooper:** We can quote two reputable . . .

**Mr. Brand:** Should we be quoting from magazines in this Committee?

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, with all respect, this is issued as a fact. It is taken from facts Bulletin No. 2.

**Mr. Cooper:** What is the fact that you are objecting to, that it cries for hours or just that it cries, or what?

**Mrs. MacInnis (Vancouver-Kingsway):** No, I am objecting to the fact that we have been given as fact something which to my mind is just not so. At least, it has not been proven.

**Mr. Cooper:** Do you say you do not believe a baby cries at all or is it just the time element that bothers you?

**Mrs. MacInnis (Vancouver-Kingsway):** I suggest that statement as recorded there is highly inaccurate.

**Mr. Brand:** It is a bloody lie, that is what it is.

**Mrs. MacInnis (Vancouver-Kingsway):** Thank you, Mr. Chairman.

**The Chairman:** You can write to *Time* magazine, I suppose.

**Mr. Brand:** Mr. Chairman, in all fairness and on a point of order I do not think this type of nonsense should be brought before this Committee unless facts are produced to prove it. We are here trying to discuss a very serious problem and I believe that things like

this from highly inflammable articles, which are purely emotional and not based on actual fact, should not be tabled in this Committee. I consider it disgraceful that this type of thing should be brought before this Committee.

**Mr. Cooper:** Mr. Chairman, I suggest before this is rejected out of hand that perhaps there should be some counter-evidence.

**Mr. Brand:** Exactly.

**Mr. Cooper:** Is anyone prepared to say that a baby does not or cannot cry after an abortion? We have information from a physician who is available right in this city that babies can cry after an abortion. We have information to the same effect which may be provided by another doctor from Toronto who may be appearing later on. Perhaps you should make an effort to have them appear.

**The Chairman:** As a technical point, this fact sheet is not before the Committee as such. It is not part of the presentation which is being made today; it is being sent out to all members of Parliament. It is not really before us although it was originated . . .

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, I think it would make a very much stronger case for a good point of view if the so-called facts, were confirmed before they were sent out.

**Mr. Brand:** There is another example of this before the Committee, Mr. Chairman. It says on page 4:

...a doctor delivered a healthy baby by caesarian section an hour and twenty minutes after he pronounced the mother dead; . . .

This was supposed to have happened in Magnolia, Mississippi, and I challenge the witnesses to prove that case.

**Mr. Cooper:** You mean the time, or what?

**Mr. Brand:** Absolutely.

**Mr. Cooper:** The amount of time really does not alter the principle, though, does it? I grant you that some of the time could probably be explained away on other grounds. Nevertheless, the point of this reference is that a child does live as a separate organism and can continue to live as such even after the mother is dead.

**Mrs. Cooper:** Would you agree with that, Dr. Brand?

**Mr. Brand:** Up to about seven minutes.

**Mr. Cooper:** That is sufficient for the point of the argument.

**Mr. Cowan:** Mr. Chairman, might I draw the Committee's attention to the fact that twice within the past two years doctors in Toronto certified people were dead and they were found to be living when they were lying in the morgue. Maybe this woman was not dead when this caesarian operation was performed. You are a doctor from the Toronto area, sir, and you know that the events to which I am referring are facts.

**Mr. Knowles:** Mr. Chairman, most of my questions have been asked but those are the usual introductory words of one who is going to carry on anyway.

May I first, as one who has already indicated that he is critical of the brief, join Mr. Allmand in saying that I welcome the appearance of the organization that is before us today. I think it is correct to say that all of the delegations that have appeared before us thus far have favoured liberalization of our abortion laws to a greater or lesser extent. After all, if we are going to have a balanced examination of this subject we should have people on the other side. Despite what I said before and what I may say now, I join Mr. Allmand and the others in welcoming the delegation that is here today.

Mr. Cooper, even though your answers were a bit tortuous I think it was elicited from you that you are opposed to abortion except when it is necessary to save the life of the mother?

**Mr. Cooper:** Right.

**Mr. Knowles:** Whether you agree with that in all cases or not you are not certain but you appear to admit that an abortion to save the life of the mother is defensible. Does that not infringe on the right of that foetus to be born?

**Mr. Cooper:** Please explain that.

**Mr. Knowles:** I am using your language. If an abortion takes place to save the life of the mother does that not infringe on the right of that potential being to be born?

**Mr. Cooper:** In that case we would be equating a life against a life. That is a defensible balance. To equate a life against convenience, or poor health, is not...

**Mr. Knowles:** I seem to have more difficulty than anybody else in getting a direct answer to this question. It is a very simple one: If you abort a foetus to save the life of the mother have you not infringed on the right of that foetus to become a human being?

• (12.30 p.m.)

**Mr. Cooper:** It infringes on its right to live. That is what you are saying?

**Mr. Knowles:** In other words, the answer is yes?

**Mr. Cooper:** Yes; I would say that is true.

**Mr. Knowles:** Then are you not admitting that it is a matter of definition? Are you not qualifying the principle from which you refuse to budge? You say that in no case should a foetus be denied the right to be born, but you have qualified it by this one case. If you have the right to qualify it in one instance have not others the right to qualify it for some other reason?

**Mr. Cooper:** On thinking over what you are saying, Mr. Knowles, one thought comes to mind, and I will have to take back what I said. If the mother dies because she does not agree to an abortion then the foetus dies, too. In that circumstance you lose two lives. All that would happen in such a case would be that two people would be denied the right to live instead of just one. That is the answer I will have to give at this point.

**Mr. Knowles:** But you do not question the doctor's opinion that the woman would die in the way that you would question the psychiatrist's opinion that the woman might commit suicide?

**Mr. Cooper:** I gave another answer to Dr. Brand about that. I said that if it could be established beyond all doubt that absolutely nothing could be done to prevent a woman from committing suicide then I thought in that circumstance a therapeutic abortion might be justifiable. I did ask for the proviso that everything possible be done to prevent such suicide, even including resorting to extraordinary means.

**Mr. Knowles:** I hope I am not being unfair to you, but you have indicated two instances in which abortion is justifiable, or defensible although You may still say that you do not believe in it. One was when the life of the mother was at stake and the other where

there was certainty that the continued pregnancy would lead the woman to commit suicide.

**Mr. Cooper:** In both of those instances the foetus would die in any case.

**Mr. Knowles:** Granted; but you are admitting the right of human beings to make the decision that this foetus shall be aborted.

**Mrs. Cooper:** I do not think we would expect a physician to make that decision. I think that would be for the individual mother, in that case.

**Mr. Knowles:** I do not think I said "physician"; I said "human being".

**Mr. Cooper:** There are decisions that we are entitled to make, certainly. Some we are entitled to make and others we are not.

**Mr. Knowles:** As Mrs. MacInnis says, the whole point is where do you draw the line? You draw a certain line and you say that decisions made on one side of that line are defensible but on the other side of that line they are not. I suggest that all these are human decisions we make out of our best intelligence and our best appreciation of the facts, and that there might be a case for moving the line a little bit from where you have drawn it.

I would point out that you yourselves have drawn a line. It is not a line that says there shall be no abortions. You have drawn a line that says that on one side of it there shall be none and on the other side there may be.

**Mrs. Cooper:** A direct threat to life is not drawing a line such as you have described.

**Mr. Knowles:** Well, it seems to me that you have found two circumstances in which you are prepared to agree to abortion.

**Mr. Cooper:** Essentially they are one and the same circumstance.

**Mrs. Cooper:** A direct threat to the mother's life.

**Mr. Knowles:** All right; let us consider it one, if you will. You have one circumstance in which you say it is all right to infringe on the rights of the foetus to carry on.

**Mrs. Cooper:** I am not saying it is all right.

**Mr. Cooper:** We are saying it is defensible. This is a problem that moralists have wran-

gled over for a long time. We do not pretend to be experts on all the intricacies of extraordinary cases, but I think one point that is clear, and should be clear even to those who have not explored all the intricacies of the subject, is that a life can be equated with a life. One cannot equate someone's emotional condition with a life; one cannot equate someone's social inconvenience with a life. In the one case the two things balance and in the other they very clearly do not balance at all. I think the principle is quite clear and firm.

**Mr. Knowles:** I think argument by analogy or by equation is always difficult.

**Mrs. Cooper:** Here we are dealing with two people.

**Mr. Knowles:** Even the idea that a life is equated to a life in self-defence is one that moralists can argue about.

The only point I am trying to make—and if you are not prepared to admit it, that is fine—is that you yourselves admit that the rule cannot be absolute. You admit that there are some cases—and I only use your own words—where it is defensible. Those of us who believe that the law should be liberalized and broadened just happen to consider that there are other cases in which we think it is defensible.

**Mr. Cooper:** Our comment on that is that our principle is pretty easy to define. It is a clear line. The principles on which abortion for other reasons is proposed are hazy principles which can be broadened to encompass, in effect, not only abortion on demand but infanticide or the destruction of another human being who might be considered inconvenient to society or to an individual. If you think it is possible to draw a line that would prevent that happening I would be interested to hear where it is.

**Mrs. Cooper:** If I may I will read something said by Professor Ian MacDonald, who is a practising gynaecologist at the Queen Mother's Hospital at the University of Glasgow. He says:

Most of all do we fear, however, the longterm effect of this type of legislation, which by cheapening life can only lead to a surreptitious lowering of ethical standards. If abortion is accepted as a way out of a social difficulty, our social services will be discouraged rather than

helped, and even the woman with a large number of children will get less sympathy, not more. The cause of family planning will receive a setback, and we can expect more contraceptive failures, not less as responsibility is reduced in anticipation of being able to resort to abortion as the final way out.

This kind of thing will not raise the standards of medicine. It could have the opposite effect in fact, in a bad climate of philosophical opinion. Making abortion available on social grounds is like giving drugs freely to teenagers in order to discourage them from buying from crooks and blackmailers.

Better medicine, better philosophy and better social services may sound like starry-eyed idealism in the face of such a cheap, ready and shoddy alternative as getting rid of the unwanted, unborn child, but the day idealism goes out of medicine then society is doomed.

**Mr. Knowles:** Mr. Chairman, that is a arguable position to take.

The whole point I was trying to make is that your case is, in part, based on an absolute: There shall not be any abortions. Then you do admit that there are some cases. I suggest that we are not two different breeds of people. We are simply arguing where the line should be.

**Mr. Cooper:** The difference is that we believe we have a clear line, and we honestly do not where your line is.

**Mr. Knowles:** I would like to make the case that the moral position is not only absolute, that there is this and this and there shall be no abortion, but that there can also be a moral position where we take certain steps; that we do certain things out of respect for the lives of people, for their health, for their sanity, for social and economic conditions and for the rights of children. I think that to attach the word "morals" all to one side is...

**Mr. Cooper:** But when you mention social and economic conditions, are we not taking a very easy way out if we say abortion is the answer?

**Mr. Knowles:** I am willing to discuss where the line should be drawn. My quarrel with you people is that you are not willing. You have drawn the line. We in this Committee are going to have to decide where to draw the line.

**Mrs. Cooper:** I think the line has been drawn as far as the law stands at present.

**Mr. Knowles:** You talk about being hazy. Nothing is hazier than the present law. Ask any doctor.

● (12.40 p.m.)

**Mrs. Cooper:** I mean as far as the direct threat to the mother's life is concerned.

**Mrs. MacInnis (Vancouver-Kingsway):** No, no. There are two contradictory sections in the Code.

**Mr. Knowles:** I have already expressed myself about the reference in one of these briefs to people who believe in abortion having Hitler's idea and following the moral standards of a maniac, the maniac being Hitler. I still do not like that. I think it would have been better if it had not been put in the brief. But I would also like to ask whether you really think that we who favour the modernization of our abortion laws are ready to go on killing off our unwanted old people, our crippled, our blind, our sick and the inmates of prisons and mental institutions. Do you really think that we are prepared for abortion because one mother wants to avoid swollen ankles or another is anxious to buy a colour television set? Really, this is a serious problem. I wish you had come before us with reasoned arguments instead of this kind of...

**Mr. Cooper:** Mr. Knowles, I anticipated that argument. It is a very reasonable argument and the answer, quite clearly, is no. I do not think you or anyone here is prepared to do anything of that nature. Nevertheless, we are laying the framework for other people who come after us. When we take a road, when we blaze a trail, we do not know how far other people are going along that trail. You are familiar with the history of the Russian Revolution. It did not go the way... One thing that happened is this. There were principles which were adopted in all innocence under Lenin, for instance the idea that you had to have a tight centralized control and that on occasion you must forget about bourgeois morality.

**Mr. Allmand:** Did you watch TV just recently?

**Mr. Cooper:** I am sure Lenin had no intention of doing the things that Stalin did. Nevertheless, he laid the foundation for some of the things that Stalin did.

**Mr. Knowles:** I guess you watched the CTV Sunday night instead of the CBC.

**Mr. Cooper:** At any rate, certainly some of the early Communists were not looking toward a day when you would have Stalin's purges, for example. Nevertheless, those purges followed as a matter of history. There was the unfolding of Communist principles as they had been elaborated. The mere fact that these early Communists did not intend these things to happen did not prevent them from happening, and the mere fact that this Committee does not intend to encourage or permit infanticide does not mean that others coming after us will not push the new laws to the limit of their logic.

We have seen that infanticide has been practised in this country and that it has been defended in this country. There was a minister in this city, a United Church minister, who thought that the killing of a deformed child was a defensible practice. You saw what happened in Liège, Belgium, the Van-deput case, where you had five people acquitted of any offence whatever after the child had been put to death. All you have to do is notice the history of infanticide in British law. The reason it was made a separate offence in 1922 was that they found that juries were unwilling to convict a mother of killing her baby. So, I do not think we should assume too readily that infanticide and tolerance of infanticide can never happen. It has happened in other societies and I think we are whistling in the dark if we assume that other people might not take these principles we have elaborated and apply them in a way we never intended.

**Mr. Knowles:** Mr. Chairman, I think it is a piece of irrelevant nonsense to suggest that the abortion controls that we would change would lead to infanticide and killing off our sick and crippled and old and people in mental institutions and members of the Liberal Party and all the rest. I do not think we would go that far.

**Mr. Cooper:** No, you are right; you will not but others might.

**Mr. Knowles:** Mr. Chairman, may I ask one other question. I think it was you, Mr. Cooper, who said that the evidence of science is that life begins at conception. Have you got that evidence? Can you table it?

**Mr. Cooper:** We have given a reference here. All you need to do is consult the definition of life.

**Mr. Knowles:** Then it is a matter of definition?

**Mr. Cooper:** Certainly, it is a matter of definition. We always deal in terms of definition.

**Mr. Knowles:** In one of your papers which, I think, is before us you make the statement that to define a human being in terms of viability is not only arbitrary but also quite unworkable. Now, we could deal with the latter part of it but you say that to define a human being in terms of viability is arbitrary. Is that any more arbitrary than to say that life begins at conception?

**Mr. Cooper:** It is not only arbitrary; it is also unworkable. As I indicate, it does not apply to cases where common sense tells us that the child is alive. It does not apply to a baby born with a serious congenital defect.

**Mr. Knowles:** What is your feeling about accidental abortions or miscarriages that take place in the first few weeks?

**Mr. Cooper:** My opinion is the same as my opinion of the accidental death of an infant. This particular argument which I have heard strikes me as one of the most illogical.—It was on television the other night. You had David Steele saying, "Well, of course, there is an excellent chance this child might not have grown to maturity. Therefore, it is quite defensible to kill it". There are many countries in the world where the infant mortality rate has been enormously high. You might get a five-year-old child who would not survive to the age of ten. If you apply Mr. Steele's logic, you will say it is quite defensible to run over this child with your car as he might not survive to maturity.

**Mr. Knowles:** I thought you were listening to the Russian program on the other station? How did you hear both at the same time?

**Mrs. MacInnis (Vancouver-Kingsway):** On a point of privilege, Mr. Chairman, I heard the program and David Steele made no such suggestion. He was dealing strictly with the foetus before birth and had nothing to say about killing children after birth at all.

**Mr. Cooper:** No, he never said anything about it but the principle is logically the same.

**Mrs. MacInnis (Vancouver-Kingsway):** No. You put words in his mouth that he did not say and I am here to say that he did not say them. You are putting words in other people's mouths like this all the time. It does destroy your credibility as witnesses, really.

**Mrs. Cooper:** I think that what my husband was saying is that when he held up the little capsule or whatever it was that he had and Patrick Watson, I believe, turned to him and said, "Do you not have some emotion, holding that thing in your hands; you know, that has been whipped away from somebody", I think his reply was, and maybe someone can correct me if I am wrong, "Well, of course, it might not have lived; it might not have come to maturity", meaning it might not have been born anyhow.

**Mr. Cooper:** Yes, and the plain implication of what he said was that that, in itself, made it defensible to destroy the child.

**Mrs. MacInnis:** The point is that he did not make that implication. He did not say that. You are stating it as though he had.

**Mrs. Cooper:** The inference was there.

**The Chairman:** Perhaps we could forget that there ever was such a television program and concern ourselves with the presentation.

**Mr. Knowles:** I disagree. I think there is a lot of argument by assertion. There are a lot of implications that are not here. But I think it is a good idea to have you before us and your presence will make us realize that we have to draw a line somewhere.

**Mr. Rock:** It seems, Mr. Cooper, that you are en bloc against abortion, period. I would like to ask you, at the same time then, what your opinion is on the use of contraceptives. I would like to know if you are against the use of contraceptives or not?

**Mr. Cooper:** No, We are not against the use of contraceptives. Do you mean that we think there should be a law against contraception? Certainly not. We certainly cannot speak for our organization. We have never been polled on the subject but I think the consensus, as I have gathered it, is that certainly contraceptives are vastly superior to abortion.

**Mr. Cowan:** Mr. Chairman, after such a presentation of their convictions and beliefs that these three witnesses have given us, I cannot gild the lily. I have no questions

except to ask Mrs. Heron one. She writes: "I believe the rights of the individual begin in the womb." You are aware, Mrs. Heron, that there is a law of the Parliament of Canada, a law of the Parliament of Great Britain, that under Thellusson's law accumulations can last for 21 years plus 9 months, the period of gestation? Parliament already admits that there must be life for nine months because it is the law of the land. The period of gestation plus 21 years is the limit on the law for accumulation. I want to congratulate the three of you. I endorse everything that Mr. Allmand said and a few words that Mr. Knowles said when he commended you for your stand and for your presentation here this morning.

• (12:50 p.m.)

**Mr. Isabelle:** May I raise one point to try to clarify the situation. I think that your group, Mr. Cooper, is not against abortion, but rather against the briefs that were presented to us up to now. According to what you have just said, I think that you are for a limited law on abortion.

**Mrs. Cooper:** There already is a limited law on abortion.

**Mr. Isabelle:** No, there is no law, actually. It is only a tolerance that we have in our law.

**Mrs. Cooper:** It is the same thing.

**The Chairman:** Are there any other questions from members of the Committee who have not questioned anyone before? If not, will you proceed, Mr. Allmand.

**Mr. Allmand:** Mr. Chairman, I just wanted to clear up the point on which Mrs. MacInnis was questioning Mr. Cooper. She was trying to pin him down on whether he personally believed that you could abort a foetus to save the life of the mother, and she was trying to infer, I think for herself, that this was equivalent to accepting abortion in some cases. When you say that it is a defensible position, that you would accept abortion to save the life of the mother but that you are uncertain about it yourself, does this mean that you are willing to allow the criminal law to accept it in those cases but that you are uncertain about your own personal morals? In other words, you are certain about what the law should be but your own personal moral position is another thing.

**Mr. Cooper:** Yes, that is right.

**Mr. Allmand:** I wanted to clear that up because I think that although people can have a personal moral position they do not believe that in all cases their stand should be reflected in criminal law.

**Mr. Cooper:** That is right.

**Mr. Allmand:** Do you have any criteria on what you think the purpose of the criminal law should be in this case, to enforce personal morals or to promote public order.

**Mr. Cooper:** To protect human life.

**Mrs. Cooper:** In this instance.

**Mr. Cooper:** I think our principles can be understood if we define abortion, as we do briefly, as prenatal infanticide. There would be no question whether or not we should broaden the grounds for infanticide. If a mother has a large family, she does not know what to do, and they are a strain on her health, no one would suggest that we allow infanticide in such cases. We talk about drawing lines. Mr. Knowles, for example, draws a line at birth. We do not draw the line there.

**Mr. Knowles:** I did not say that.

**The Chairman:** I do not think he said that.

**Mr. Cooper:** I am encouraged to hear that.

**Mr. Knowles:** I think I would accept, roughly speaking, the lines that Dr. Morgentaler drew in his brief.

**Mr. Cooper:** Well, he used the viability argument and we have stated why we think it is an illogical argument.

**Mr. Allmand:** Do you think that one of the purposes of the criminal law is to protect life at all levels?

**Mrs. Cooper:** Right.

**Mr. Forrestall:** Mr. Chairman, I would like to join with those who wish to express their thanks to the Emergency Organization. If necessary, I will put it in the form of a motion.

It seems apparent from one or two incidents that arose earlier in the questioning that I could take a little bit of liberty with the doctor's own credo and suggest that we as a Committee heal ourselves by engaging some noted gynaecologists or some other expert in this field so that matters, such as the fifth fact raised in Facts Bulletin No. 2, could be resolved at least to the extent of a

professional opinion. I would go so far as to say that perhaps we should retain an expert right now to assist us in answering some of these questions. This suggestion comes to mind because while we are perhaps capable of providing an answer to some of the statements in paragraph No. 5 it might be a question of semantics. It may be that what happens after the 16th or the 24th week of pregnancy is not necessarily an abortion; it may be something else. The changing of that one word might have alleviated the necessity of argument, in the presence of professional opinion. I am not attempting to disqualify the doctors at all. It seems to me, because of the nature of definition that must be applied to these things, that it might be useful to have somebody to act as the servant of the Committee in this sense, and I would so move, if it is in order.

**The Chairman:** Would you allow the Chairman to discuss this with the Steering Committee?

**Mr. Forrestall:** Yes, I will.

**The Chairman:** Perhaps you could ask such questions on November 16 when we have the Catholic Physicians Guild of Manitoba before us because they have eminent specialists in this field.

**Mr. Forrestall:** All right.

Again, may I thank you for your views. I too find myself with a very deep and abiding moral conviction and I am very concerned with what I should do to ensure good law. You stood up to our questioning very well.

**Mr. Knowles:** You are wrong but you were good with us.

**Mr. Forrestall:** I think you are right and you were good with them.

**Mrs. Cooper:** Thank you.

**The Chairman:** As Chairman, I would like, officially, to thank the members of the Organization for the Defence of Unborn Children for presenting their brief to us today.

There is no meeting on Thursday. One week from today we will have a presentation. Mr. R. C. Coleman of London, Ontario, wishes to speak on the Bill presented in the United Kingdom.

The meeting is adjourned.

## APPENDIX "F"

BRIEF TO THE STANDING COMMITTEE  
OF THE HOUSE OF COMMONS  
ON HEALTH AND WELFARE

from the Emergency Organization for  
the Defence of Unborn Children

Abortion is an emotional issue, both for those who oppose it and for those now demanding easier abortion laws. It is almost never discussed without some moving reference to rape, incest, maternal hardship and distress. We can't help feeling strongly about such things, as indeed we should; but strong feelings can be dangerously one-sided.

We are tempted to forget, and even to deny, that more than one life is involved in an abortion. Everyone cares about the mother, because she is someone we see and know; but not so many are concerned about her unborn baby. Nearly every debate on abortion brings forth an impassioned plea for the rights of women; by contrast, it seems taken for granted that an unborn child has no rights at all—not even the elementary right to life.

If a mere man enters the discussion, he is often told that abortion is none of his business. According to this viewpoint, abortion is entirely the woman's affair, of no direct concern to anyone else. And yet, those most affected by abortion are neither men nor women, but the unborn children exterminated in the womb. Not one of these helpless victims is represented on any bar association, medical society, "reform" committee or any other group dedicated to easier abortion. Since they cannot speak for themselves, we have a special duty not to forget them.

Abortion is also, of course, a religious issue—but not in any narrow sectarian sense. Every major denomination has opposed abortion, and only recently have some of them retreated from this stand. The Catholic Church, while re-examining its teachings, reaffirmed its opposition when the Second Vatican Council condemned both abortion and infanticide as "unspeakable crimes". However, one need not belong to any organized religious group to oppose abortion. For this opposition is rooted not in any sectarian

dogma, but in one of the basic tenets of civilized justice and morality—the sanctity of human life.

In this respect abortion is quite unlike birth control, with which it often is confused. Birth control is a private act affecting no one directly but those who practise it; abortion, though, is no such private affair. No matter how we rationalize or excuse it, abortion is the killing of another human being. This removes it from the realm of private morality and makes it inescapably a concern of the state. For the state can no more tolerate abortion than it can tolerate murder, manslaughter or any other form of homicide.

This crucial point is missed by those who suggest that our abortion laws be made "permissive"—as though the question, to kill or not to kill, should be just a matter of conscience. A free society must allow an enormous variety of religious and social practices; but it cannot allow me to practise ritual murder or human sacrifice. In essence, abortion is really a form of genocide—the extermination of the unwanted unborn; and just as we cannot permit genocide, we cannot logically permit abortion.

Every argument for abortion rests on one of two assumptions: (a) that an unborn child is really not a human being, or (b) that some human beings are less valuable than others, and hence may be freely sacrificed for our comfort and convenience. The first of those assumptions is arbitrary, illogical and false; the second is presumptuous and dangerous, and a repudiation of all that we mean by justice.

If an unborn child is not a human being, it is hard to see why any justification should be needed to destroy it. On this assumption considerations of rape, incest, economic hardship, the mother's physical or mental health should no more be required for an abortion than for the drowning of an unwanted kitten. Any excuse or no excuse at all should be sufficient, and no abortion law should be needed.

The Criminal Code does, in fact, describe an unborn child as one "that has not become a human being". But this is just a legal

fiction, apparently intended to permit a lighter penalty for abortion than for murder. Like many other legal fictions, it does not correspond to any biological or medical reality.

The development of an individual neither begins nor ends at birth, but continues from conception to maturity and death. It is at conception, moreover, that the human pattern of this development is fixed, in the genetic makeup of the fertilized ovum. Important as birth may be, it is at conception that we receive our humanity; and this is true even if we choose not to talk about a soul.

We sometimes hear the objection that an unborn child, especially in its earliest weeks, does not "resemble" a human being. What this really means is that it does not look the same as a mature adult; but neither does a newborn baby, and the difference is only one of degree. Similarly, a five-year-old boy looks different from a youth of eighteen or an elderly man; yet each of them is human, and all have the same right to life. A fetus or embryo is just another part of this same human cycle.

Its appearance may be less familiar to us because this stage of human development is concealed within the womb. But suggestions that an unborn child is just a sort of "tumor" or "vegetable" are expressions of ignorance or superficial thinking. No tumor ever behaved like a human embryo or fetus, and no competent observer could ever be confused about the difference.

From the moment of conception a child develops rapidly, and its heart begins to beat as early as the eighteenth day—often before the mother realizes she is pregnant. Soon thereafter it has limbs, hands and all the vital organs of an adult, including a functioning nervous system. Before the time most abortions are performed, the child is recognizably human even to a layman.

A variation of the "tumor" argument states that an unborn child is just a part of its mother, a piece of her tissue with no human life of its own. But this is contradicted by medical science. By every immunological test, the child is a foreign body growing inside the womb. If its circulatory system were connected with the mother's, her body would reject the child; similarly, if a piece of the baby's skin were grafted to the mother, her body would reject the graft.

The child survives in the womb because it has a separate circulatory system—often with

blood of a different type from the mother's. Much more than a piece of her tissue, the child is a separate living organism with functioning organs and tissues of its own. It is unmistakably a separate individual with its own metabolism, its own nervous system and its own capacity for movement.

True, a fetus lives and grows within another human being, on whom it depends for all its needs. In this respect it is technically a parasite; but no one would argue that a parasite is just a part of its host. Even after birth, moreover, a baby is still a parasite—still helpless and dependent on its mother. So birth does not so radically alter this relationship as some pro-abortionists would have us believe.

To say that the life of an unborn child depends on its mother is a long way from proving it has no life of its own. In October of 1966 in Magnolia, Mississippi, a doctor delivered a healthy baby by caesarian section an hour and twenty minutes after he pronounced the mother dead; a few years ago a similar case was reported near the West Coast, after a woman was killed in a highway accident. In these circumstances no one could pretend that the life of the child was simply the life of its mother. Such cases may be rare, but they dramatically puncture the argument—often used by defenders of abortion—that an unborn child has no life of its own.

Its life, moreover, is a human life. A premature baby is undoubtedly a human being, even in the eyes of the Criminal Code; how, then, can we deny the humanity of a child that remains in the womb? Birth changes the baby's environment and the special way it depends on its mother; but it cannot change the baby's essential nature. If a child is a human being immediately after birth, then it must have been a human being immediately before.

On this vital point the Criminal Code is both arbitrary and naive. Section 195 declares arbitrarily—and quite unreasonably—that a child becomes suddenly human at the moment of birth. And curiously enough, it apparently assumes that an unborn child lacks an independent circulatory system. This misconception is evidently implied in clause (b) of paragraph (1): this states that a child becomes a human being at birth "whether or not...it has an independent circulation."

That this popular fiction should be reflected in the language of the law is a further

warning of the careless thinking embodied in this section of the Code. And yet, this foolish definition is often cited in support of the view that human life begins at birth.

In defence of abortion, it is sometimes argued that an unborn child has no consciousness. This, however, is certainly false in the later stages of pregnancy, and probably false through most of the earlier stages. A premature baby has consciousness, and so has an unborn child at the same age or earlier. Moreover, an unborn child is even capable of learning; this was demonstrated nearly thirty years ago by an American experimenter, David Spelt, who taught a number of human fetuses to respond to sound while still in the womb.

Professor James Scott of Leeds University, England, has observed a ten-week-old fetus apparently struggling to get off a surgical needle. Its actions, he reported, did not resemble a mere reflex, but those of a human being in pain. Spontaneous movements, as distinct from those in response to stimuli, may begin as early as nine and a half weeks; shortly after the eighth week a fetus will respond to touch by moving its head, limbs or body. And this sensitivity probably exists before we can detect it.

But even if it were true that an unborn child lacks consciousness, how would that justify our killing it? No one believes that we cease to be human when we fall asleep, or that our right to live is suspended for five or six hours every night. It is no defence against a charge of murder to show that the victim was unconscious at the time of the slaying; so how could this same excuse be a valid defence of abortion?

It may be answered, perhaps, that a sleeping adult can be awakened at any time. But this is not always true. If consciousness were the test, what should we say of the patient who lies anaesthetized on the operating table? Or the accident victim who lingers for days, weeks or even years in a coma? Such a person may be further from consciousness than the smallest embryo—and yet we still regard him as a human being.

As an attempt to justify abortion, the test of consciousness therefore breaks down. And so does every similar attempt to prove that an unborn child is less than human. There is only one point at which we can say definitely—and without being arbitrary or inconsistent—that human life begins; and that point is the moment of conception. In the light of

modern biology, ancient arguments about the time when "quickening" occurs are quite irrelevant; to destroy a child at any time after its conception is an act of homicide.

Our duty is to face this fact, and not to gloss it over with evasive euphemisms. Abortion is often whitewashed as the destruction of "potential" human life; but this is less than the truth. The so-called "termination of pregnancy" is the termination of an actual human life, the killing of a human being.

This does not mean that abortion is always murder, or that every abortionist is a murderer. No one can be guilty of murder unless he realizes the quality of his act; and most abortionists, probably, simply know not what they do. The same is true of those who defend and promote abortion, often with the most humane intentions.

Why is it, then, that so many people deny the humanity of an unborn child? The probable explanation is that an unborn child is a stranger, someone we have never seen. It is easy to be concerned with the welfare of those we know and love, while regarding everyone else as less important and somehow less real. Most people would rather hear of the death of a thousand strangers than a serious accident involving a close friend or a favorite relative. This is why some of us are less disturbed by the slaughter of a thousand unborn children than by the personal problems of a pregnant woman across the street. To rationalize this double standard, we may pretend to ourselves that an unborn child is not a human being.

This same kind of thinking has been extended even to babies after their birth. A few years ago, a letter to a Toronto newspaper defended infanticide on the ground that a newborn baby is not really a person; by contrast, the writer argued, an older child is someone we know and love. In other words, a human being is someone we know and care about; and, conversely, someone that nobody knows or wants is not a human being.

A similar view is dressed in more sophisticated language. This maintains that neither an unborn child nor a small baby is a human being, because they have no active "social relationships". Here again is the primitive notion that a human being is someone who "belongs", someone who fits into one's society. Conversely, some savage peoples reasoned, a misfit or stranger is not truly a human being.

Anthropologists have noted that primitive tribes the world over have looked upon strangers as less than human. Many of the tribal names by which they call themselves are simply their own words meaning "human beings"—the *only* human beings. Our own Eskimos refer to themselves as "Inuit"—"the human beings". In her book, *Patterns of Culture*, Ruth Benedict finds this same irrational outlook in our own society, expressed as racial prejudice. Moreover, this primitive attitude toward strangers is also the one that denies the humanity of an unborn child.

Ultimately, then, this denial is not a statement of objective fact, but a primitive judgment about the worth of human life. This sees no value in any life except a value for ourselves, or for someone else in whom we have a personal interest. This, of course, is the same standard we apply to our pets and livestock; it is also the classic excuse for genocide, such as Hitler practised against the Jews. But this is substantially the basis of the whole case for easy abortion.

Advocates of so-called "liberal" abortion laws may fail to acknowledge this even to themselves. But more and more, as other excuses prove illogical and empty, it grows plain that this indeed is their guiding assumption. Many campaigners for easy abortion now concede that an unborn child is a human being; but they are more concerned, they say, with the "family relationships" it may disturb. In other words, they rate the value of a human life in terms of someone else's interest or convenience.

Just as cogently, this same kind of thinking has been used to justify infanticide and the killing of the sick, the aged and infirm. It has been used in this way by the Eskimos and other primitive peoples; it has been applied in similar fashion by such civilized peoples as the ancient Greeks and Romans. More recently it has also been applied by the Nazis.

Campaigners for easy abortion may sincerely regard themselves as "progressives", crusading for more "civilized" laws. In fact, however, easy abortion laws are quite reactionary. Abortion is an old and primitive custom, widely practised in savage and other preliterate societies where human life was often lightly valued. It was practised, for example, by the now-extinct Tasmanians, the most primitive people ever known in recent times.

Quite commonly, the society that condoned abortion also condoned infanticide. So it was with the Tasmanians, the Australian aborigines, the Eskimos and many others. So it was also with the Greeks and Romans, who practised abortion and left unwanted children to die of exposure. These same Romans were a people whose chief amusements were gladiatorial shows, and who claimed the power of life or death over their slaves; and yet, their approval of abortion has been cited as evidence that abortion is a "liberal" and "progressive" practice.

A worthier standard from the ancient world is the Hippocratic Oath, which even today is supposedly the basis of medical ethics. This insists on the doctor's solemn duty to safeguard human life, including the life of an unborn child. It specifically declares: "I will give no deadly drug to any, though it be asked of me, nor will I counsel such, and especially I will not aid a woman to procure abortion." Any doctor who performs or promotes abortions does so in plain violation of this oath.

The primitive practices of abortion and infanticide were based on the assumption that a human life had no absolute value as such. The life of a child might have some sentimental value for the family, but that was all. Consequently, as the *Encyclopaedia Britannica* points out, it could be destroyed without compunction for social or economic reasons.

But this primitive notion is opposed to the basic principle of civilized morality, that every human life is precious in itself. The more civilized we become, the more we recognize that all human beings have an equal right to live—even the most unwanted tramp or derelict. We acknowledge this not only in our churches and welfare agencies, but also in our legal system. Formerly we used to execute a wide variety of criminals, including petty thieves; but more and more we shrink from killing any human being, even a murderer.

Against this civilized trend, the demand for easy abortion is an aberrant reaction. It is ironic, surely, that some of those now campaigning for easier abortion laws are also seeking to abolish capital punishment. In effect, they want to abolish the death penalty for the guilty and to legalize it for the innocent. One objection to capital punishment is that it may destroy the innocent instead of the guilty; but abortion is aimed at the inno-

cent and at no one else.

Most ironic of all, perhaps, is the call for legalized abortion when pregnancy results from rape. In some places, like some of the southern United States, rape is punishable by death; but here in Canada, any move to introduce capital punishment for rape would undoubtedly be defeated. And among its strongest opponents would be some of the same people now pressing for legal abortion following rape. What they want to do, in fact, is to spare the rapist and execute the child, who had no part in the offence.

Rape is a detestable, outrageous crime; but no sane reasoning can place the slightest blame on the unborn child it might produce. Why, then, should we be more anxious to destroy *this* child than one conceived through sexual licence, adultery or indiscretion? For any girl or woman, violent rape is a traumatic experience; but the trauma is caused by the rape itself, and not by any resulting pregnancy. Abortion may end the pregnancy, but it cannot wipe out the rape which is the actual cause of the trauma.

Pregnancy itself is a perfectly normal condition with which modern medicine is well able to cope. This is true even if the mother is a very young girl, say thirteen or fourteen years old. Since abortion cannot cure the mental damage caused by rape, what medical purpose can it serve in the wake of an attack? And what is its special justification in such circumstances? The obvious answer is that rape arouses our anger, and the child is a convenient scapegoat on which to vent this anger. Abortion then is an act of misdirected vengeance, an act of human sacrifice to appease our own wrath.

All abortion, in fact, is human sacrifice. If not to appease our anger, it is the sacrifice of an innocent life to our own comfort and convenience, our social or economic position, or perhaps a woman's peace of mind or physical well-being. This is true even if the pretext for abortion is that the child might be deformed. Caring for such a child may be a heavy burden, one we do not wish to bear; and so, to avoid this burden, we may destroy the child by abortion.

Sacrifice is justified only if the thing we wish to gain or preserve is of greater value than what we destroy. But is anyone's comfort, convenience or peace of mind worth more than a human life? Is it better to kill one or more human beings than to risk some

possible danger to another's health? Not unless some human lives are less valuable than others—unless we can deny that all human beings have the same right to live. To adopt this position, though, would be a denial of all that we mean by justice.

The keystone of civilized justice is equality before the law. Without this equality justice has no meaning. But every argument for abortion implicitly rejects this basic principle. Moreover, in assigning different values to different human lives, we deny the absolute value of *any* human life. If we can deny the sanctity of *some* innocent human lives, then *no* human life is really sacred.

The moral basis of our legal system is expressed in the words, "Thou shalt love thy neighbor as thyself." Not only Jews and Christians profess to honor this principle, but also followers of other religions and no religion at all. If we reflect upon it carefully, it forbids us to regard any human life as less valuable than another; and this includes the life of the smallest infant or unborn child.

"Thou shalt love thy neighbor as thyself" is not an attempt to dictate our emotions, but a prescription of essential justice. It demands that we place the same moral value on every human life, the value we place on our own. Consequently, it forbids us to sacrifice another human being for our own advantage, or for the advantage of someone else we happen to prefer. Abortion is a plain rejection of this principle—a denial of justice and civilized morality.

In the British House of Commons a champion of abortion, David Steel, held up a test-tube containing a tiny human fetus. Referring to its small size, he remarked: "This is what we weigh against a mother's life and the welfare of her family." The gesture was dramatic, but the argument was specious. Quite clearly, it rested on the false assumption that we can measure the worth of a human being by his size. If physical size were the test of moral value, then a human being would be less valuable than a whale or an elephant; yet this is the fatuous standard that Mr. Steel applies to an unborn child.

No civilized person believes that a small man has fewer rights than a big man, or that the life of a two-year-old is less precious than the life of an adult. In the scales of justice all human beings have the same value, regardless of size or age; and every human life is entitled to the same respect. If

any difference in treatment is warranted, we have a special obligation to protect the weak and helpless; and no human being is more helpless than an unborn child.

Too easily, strong emotions can blind us to the plain demands of justice. Just mention rape, for instance, and one may provoke an angry response that clamors for the death of an innocent child. This is the reaction of a lynch mob—irrational, dangerous and unjust. To base our laws on such reactions would be the depth of folly; yet this we are asked to do by some proposed amendments to our abortion laws.

We hear the objection that our present laws unfairly "punish" a woman by making her endure an unwanted pregnancy. But this so-called punishment bears no proportion to the undeserved *capital* punishment inflicted on her baby by abortion. An unwanted pregnancy is an inconvenience lasting only nine months; but abortion robs an innocent human being of probably *seventy years* of life. Regarded in this way, abortion may be the most enormous crime of all—unless we rate a small portion of one person's life as more precious than another's whole lifetime.

A curious argument, heard today, says a woman has an "absolute right" to decide how her body will be used. However, it should be obvious that no one—man or woman—has this unrestricted right. The law does not allow us, for example, to use our bodies to block busy streets or fire exits. Instead of working to support his family, a man might prefer to stretch out his body on a far-away beach; but then he might be charged with desertion.

What we may do with our bodies is limited by the rights of others and their claims upon us. Some things we clearly have no right to do, while there are other things we clearly *must* do. Once a man becomes a father, we do not allow him to destroy or desert his children; and once a woman becomes pregnant, we cannot allow her to destroy her unborn child—for her own sake or the father's. For the rights of both parents are limited by the rights of the child as another human being, whose life is just as precious as their own.

Normally we should be horrified if anyone advised a woman to kill one of her children to protect her own health. But this is precisely what some people are proposing now when they demand legalized abortion for "thera-

peutic" reasons. They would sacrifice one human life not only to save another, but even to avoid some lesser health hazard—an emotional disturbance or some other disorder.

This hazard may be vaguely defined or even non-existent. No doctor claims to be infallible, and most will admit that their fears and misgivings may often be mistaken. But how can we balance some doubtful benefit to the mother against the certain death of her unborn baby? Only by using a double standard which is neither moral, rational nor just.

Even discounting the life of the child, the medical case for therapeutic abortion is weaker today than ever before. Writing in the *Encyclopaedia Britannica*, Dr. M. Edward Davis, chairman of the Department of Obstetrics and Gynecology of the University of Chicago, says the frequency of therapeutic abortion is declining rapidly with the advance of medical knowledge. According to Dr. Herbert Ratner, public health director of Oak Park, Illinois, today there is "virtually no need" for abortion as a maternal health measure.

In Canada these observations are strongly supported by statistics. Despite a tremendous increase in the number of births, the number of deaths due to pregnancy has fallen swiftly and steadily. In 1940 they numbered 978; in 1963 the total was only 165. In 1940 the maternal death rate was 40 in every 10,000 live births; since 1951 it has been less than 10, and since 1961 less than 5. In 1963 the maternal death rate was only 3.5—less than one-tenth of the 1940 rate. Moreover, most maternal deaths were from causes apparently unrelated to any of the usual reasons for therapeutic abortion.

As the death rate has fallen, it stands to reason that the non-fatal hazards of pregnancy have likewise decreased. Why, therefore, are some groups now pressing for legalized therapeutic abortion? The obvious conclusion is that they contemplate using it for still less urgent reasons, when no serious danger is even suspected. Some of these reasons could be almost trivial, but still defensible in law.

The proposed grounds for legal therapeutic abortion are so vaguely defined that abuse would be inevitable. Dr. Alan Guttmacher, of Planned Parenthood of America, has made the following observation:

"In borderline cases, and all too frequently in cases which are not even borderline, the

patient's prestige and money are very vocal in getting an undesired pregnancy terminated. I am loath to admit it, but far too often a minor difficulty is stretched into a major abnormality for the right person."

Quite conceivably, therapeutic abortion might be prescribed to prevent varicose veins or for other cosmetic reasons—especially if the patient seemed abnormally sensitive about such things. In these circumstances it might be plausibly defended on psychiatric grounds. A threat to *mental* health is much harder to define and assess than a threat to physical health; consequently, "psychiatric" grounds can often be stretched to authorize abortion on demand.

The *London Observer* recently told of a Harley Street specialist who performed some 1,800 abortions a year—all of them legally classed as "therapeutic" abortions. The most common reasons for seeking these abortions, the doctor's case notes revealed, were that the woman was "not in love" or "did not wish to marry him". The official justification was that continued pregnancy would damage the woman's health—"almost invariably her mental health."

Some of our hospitals authorize abortions—probably illegal—on the ground that the woman might otherwise commit suicide. Any woman who realizes this has only to *threaten* suicide, and perhaps put on a convincing act, to stand an excellent chance of obtaining abortion on demand. This might aptly be called abortion by extortion, and to legalize it on so-called "therapeutic" grounds would encourage this abuse. Moreover, too many doctors would willingly be taken in by the deception.

Even if suicide were not overtly threatened, some sympathetic and "liberal"-minded physicians would be happy to imagine that the danger existed. Dr. Theodore Lidz, professor of psychiatry at the Yale University School of Medicine, puts it this way:

"Let us be frank about this. When the psychiatrist says that there is a suicidal risk, in many instances he does not mean that at all, but feels that there are strong socio-economic grounds for therapeutic abortion. Since the only ground for abortion in many states is if it is felt there is threat of death, suicidal risk is thus established as the only legal way out of the situation."

Does therapeutic abortion *really* prevent suicides? A doctor seeking to rationalize it

may easily persuade himself that it does; but there is no conclusive proof of this. There is no proof, either, that it might not have the opposite effect. After an abortion many women suffer feelings of guilt and depression—a fact admitted even by defenders of abortion. There is reason to suspect, therefore, that abortion may *cause* as many suicides as it prevents.

The highest suicide rates in the world for women aged 20 to 24 are those of Japan (44.1 per 100,000) and Hungary (17.1 per 100,000). These same two countries also have perhaps the world's highest abortion rates. Noting these statistics, Professor Shiden Inoue of Nanzan University, Japan, sees a possible causal relationship between abortion and suicide in these countries.

To police any law permitting therapeutic abortion—never precisely defined—would be most difficult. What is meant by a "risk" to a woman's physical or mental health? Most doctors likely would agree that every pregnancy involves at least some risk. What, then, is meant by a "serious risk? None of the proposed amendments offer any guidance on this crucial point.

To police a law that justifies abortion on the basis of personal *opinions*, held by one doctor or half-a-dozen, would be almost impossible. How could anyone prove that a doctor's professed opinion on a given case was different from his real one? Bills C-122 and C-136 refer to opinions held "in good faith"; but how do we determine that?

There are plenty of people—including many doctors—who believe no reason at all should be required for an abortion. Frequently, therefore, the official reason for a so-called "therapeutic" abortion might be nothing more than a convenient excuse; and this could be extremely hard to expose. To make it still more difficult, this same permissive viewpoint would undoubtedly be shared by many medical consultants and hospital officials required to sanction such abortions.

This so-called "liberal" attitude is consistent with the false assumption that an unborn child is not a human being. It is also consistent with the view that some human lives are worth much less than others. This view was expressed in *Redbook* magazine by an American biologist, Garrett Hardin, whose essential argument is that an unborn child represents only a small investment of human labor. Obviously, this "Scientist's Case for Abortion" has nothing to do with science, but

is based on some confused thinking about value. For it fails to note the simple distinction between economic value and moral value.

Surprisingly, a similar notion has even seduced some clergymen. According to Rev. J. R. Hord, a prominent United Church official, the life of an unborn child increases in value as the child develops. Consequently, he says, abortion is "more acceptable in the early stages of pregnancy than in the later stages." On this kind of reasoning, the life of a two-year-old child must be less valuable than that of an adult; and infanticide, presumably, is "more acceptable" than the killing of an adolescent.

If we apply this thinking consistently, we may logically expect to hear a demand for therapeutic infanticide. Like therapeutic abortion, this might be defended as necessary to protect the health of an overworked and harried mother. Before we assume this could never happen, we should reflect again that abortion and infanticide have frequently gone together; and here in Canada infanticide has been defended in the pulpit and the press.

Today we hear demands for legalized abortion when it is feared the child might be deformed. These same demands were heard several years ago when thousands of babies were crippled by thalidomide; and so were demands to legalize the killing of deformed infants after birth. Quite logically, if we are willing to condone abortion, we should also be willing to condone infanticide.

Nearly every argument for abortion applies just as validly to infanticide. Indeed, if we really believe that deformity deserves death, then infanticide is far more sensible than abortion. No doctor can tell for sure, in the early stages of pregnancy, whether a baby will be deformed or not. So why not defer execution until after the child is born, to avoid the risk of destroying a normal child?

If we choose abortion this risk is high, much worse than the odds in Russian roulette. The most dreaded cause of birth defects is German measles contracted in the early weeks of pregnancy; but even the highest estimates agree that fewer than half of such cases produce defects. Other estimates are much lower—less than 20 per cent. If abortion were legalized in these circumstances,

therefore, most of the babies destroyed would be quite normal.

New medical tests may enable us to predict more closely whether a child will be defective; but we still have no promise of certainty. This has prompted the following comment in the British magazine *New Scientist* by the columnist "Ariadne":

"It seems to me far worse, in some ways, to make judgments about life and death on the basis of questionable prenatal tests than to wait until after birth and see what the infant is really like before deciding whether to kill it or not."

The abortion of a defective child is defended on compassionate grounds, as a form of mercy killing. But mercy killing usually is advocated only when the victim clearly *wishes* to die; with abortion the victim is never consulted. Given a choice, most deformed persons would undoubtedly choose to be normal; but very few would choose to be dead. Most of us know blind, crippled or other handicapped persons who enjoy life thoroughly; and yet, we are asked to believe that they wish they had never been born.

Sadness and disappointment are natural reactions to the birth of a defective child; but hope is much more realistic than despair. Defective children now have brighter prospects than ever before of living full and useful lives. More and more deformities are yielding to corrective treatment, and the outlook grows brighter year by year. Meanwhile, children maimed by thalidomide are learning to play and care for themselves with the help of revolutionary new artificial limbs and hands.

At the height of the thalidomide crisis, a Belgian mother had her baby destroyed after it was born without arms. But the *Canadian Press* told of another armless baby, Leonard Seaby of Edmonton, who had been allowed to live. He had since become an all-star soccer player who enjoyed swimming, dancing, cycling, playing hockey and baseball, who excelled at drawing and was active in the Boy Scouts.

Leonard Seaby's story underscores the enormous presumption in choosing death for another human being. And it demonstrates a growing weakness in the case for mercy-kill-abortion.

To legalize such abortions, also, would be a further invitation to fraud and collusion. Too

easily, for example, a woman could claim to remember having symptoms like those of German measles—the rash, the slight fever or other mild discomfort. To detect this fraud might be exceedingly difficult, and harder still to prove. Moreover, her doctor might have no real inclination to probe the matter; on the contrary, he might even be tempted to suggest this course of deception—and to help it succeed.

To legalize abortion when rape has occurred would create still another danger. This would invite not only fraud, but also false accusation. Failing another excuse, some women might well cry “rape” to obtain an abortion. Should we then take their word for it, or should we demand some genuine proof? If we believed every woman who claimed she was raped, any law to permit abortion in such cases might well become a farce. Abortion would then be available practically on demand, and we could expect the number of reported “rapes” to rise.

On the other hand, to insist on proof would make such a law largely pointless. Rape is often difficult to prove, and to do so may require many months; by that time it may be too late for an abortion. To prove rape in any proper legal sense, it first is necessary to identify the man responsible, and then to arrest and charge him; then, perhaps after several weeks, a magistrate must hold a preliminary hearing; then, perhaps several months later, the case must be tried by a Supreme Court judge and jury. At the end of all this a pregnancy may be too far advanced for an abortion—if the child has not already been born.

To solve this problem, of course, there might be pressure to shortcut the normal course of justice. This might be done by omitting the preliminary hearing or some of the other pre-trial procedures. All too often, the result would be to deny a fair trial to the man accused of rape. Added to this danger would be the increased temptation to accuse a man unjustly, with abortion as the motive. Moreover, some juries might be tempted to convict the man in order to help the woman—without due regard for the evidence.

For legal proof, some proposals would substitute the doctors' personal opinion that a woman had been raped. In other words, they would allow the doctors to usurp a function now assigned to a jury. This not only would be a dangerous precedent for our system of justice, but would carry an enor-

mous risk of error and abuse. Whether rape has occurred is not a medical question but one to be decided from all the relevant evidence; to assume that medical practitioners are uniquely qualified to do this would be a perilous mistake.

In allowing a few doctors to act as judge and jury, we set aside the normal safeguards of justice. This is true not only when rape is suspected, but also when abortion is considered for other reasons. At stake is the life of a child accused of no offence, and unrepresented by counsel; his barest right to life may be denied or brushed aside, with no one to protest the injustice. Most likely the proceedings are private, with only scant attention to the rules of evidence followed in our courts. Probably no one insists on proof beyond a reasonable doubt; and once the child is sentenced death there is no appeal against it.

We hear it suggested that by easing our abortion laws we could sharply reduce the number of criminal abortions. By so doing, we are told, we could spare thousands of women the hazards of crude, back-room abortions by incompetent quacks. This is perhaps the most widely-used argument for so-called abortion reform, an argument pushed hard and often. However, unless we allow abortion on demand, this argument is clearly false.

Of the thousands of back-room abortions performed each year, few if any are prompted by rape, by concern for the mother's health or by the fear of bearing a deformed child. To legalize abortion on these grounds, therefore, would hardly make a dent in our criminal abortion rate. Moreover, the higher we estimate this rate, the more ludicrous is the notion that these “reforms” would put the quacks out of business.

Some inflated estimates of the number of criminal abortions in Canada run as high as 300,000 a year. But in 1965 convictions for rape totalled only 54. We have no figures on the number of pregnancies resulting from these offences, but it was almost certainly less than 10—perhaps none at all. To legalize abortion when rape is proved, therefore, might reduce the number of criminal abortions by a microscopic fraction of one per cent.

There are no statistics on the number of women whose health might be affected by pregnancy. But the number of back-room abortions performed for this reason must be

close to nil. Surely no woman deliberately places her life in the hands of a quack because she is concerned about her health. There is no evidence, either, that quacks are consulted by women who fear their babies might be defective.

The easiest prey for the back-room abortionist is the woman who sees no wrong in abortion. Safest of all from this peril is the woman whose conscience will not allow her to have an abortion, any more than it will allow her to commit murder. This is a stronger safeguard than all our warnings of death and danger, which probably are no more effective against criminal abortions than against highway accidents. Consequently, to weaken a woman's conscience in this matter is to undermine her best protection.

But this is what we tend to do whenever we condone or tolerate abortion, even for the most compassionate reasons. To legalize abortion is to give official sanction to it, and therefore to encourage it—not only in some special circumstances, but whenever someone thinks it convenient. By implying that no serious moral issue is involved, the law might incline many women to flirt with the very danger from which we seek to protect them.

If we tell a woman that some abortions are perfectly innocent, how can we tell her that others are not? The distinction is illogical to start with, and no one could be blamed for rejecting it. By legalizing some abortions but not the rest, from every consistent viewpoint we make the law an ass. Such a law would deserve less respect than the one we have now, and certainly would not eliminate criminal abortion.

This is confirmed by the experience of other countries with so-called "liberal" abortion laws. Where the grounds for abortion have been widened, the numbers of both legal and illegal abortions have often increased together. Within twelve years of adopting its permissive laws, Denmark experienced a fourfold increase in illegal abortions; while the number of legal abortions rose to 5,000 a year, the number of illegal ones climbed to 9,000. Meanwhile, Sweden has had a similar experience. In 1955, when legal abortions in Sweden totalled 4,562, the number of illegal abortions was estimated between 10,000 and 20,000. Recently, moreover, there have been reports of Swedish women going to Poland for abortions—not content with the "liberal" laws in their own country.

Quite logically, then, the easing of our own abortions laws would invite fresh demands to abolish all restraints on abortion. Indeed, we hear such demands even now, from those who see the inconsistency of half-way proposals. The new laws would be attacked with the very same arguments as the present ones—that they fail to stop criminal abortions, and that thousands of women are left at the mercy of quacks. Moreover, with laws that regard an unborn child as expendable, it would be hard to resist these arguments. Sooner or later we should have to legalize abortion on demand, with no questions asked.

And we should not assume too easily that this would be the only consequence. Abortion is wrong for the same reason that infanticide is wrong; if we can tolerate abortion, then logically we should also be willing to tolerate infanticide. For purely emotional reasons, many of those who defend abortion will probably deny this; but many others see this logic clearly and are quite prepared to act upon it.

The thalidomide crisis showed plainly that many people are willing to condone both abortion and infanticide. They defended not only the Arizona mother who journeyed to Sweden for an abortion, but also the Belgian mother who had her defective baby killed. In England, infanticide was made a lesser crime in 1922 because juries were reluctant to convict a mother of murdering her newborn child; but in the Belgian baby's death the jury refused to convict any of the five accused persons of any offence at all.

Obviously this was no calm rendering of impartial justice, but a purely emotional verdict. However, emotional decisions often have effects and implications far beyond our intentions. If we can excuse the killing of a newborn baby, then why not the killing of a child several weeks or months old? Or even several years or more? If the execution of a defective child is an act of mercy, then why not also the killing of a blind or crippled adult? Regardless of our personal reactions, this is where the logic of abortion leads us.

Perhaps the most insidious argument for abortion is the one that weeps for the unwanted child. According to this argument, an unwanted child is almost certainly doomed to unhappiness; as an act of mercy, therefore, we are urged to destroy the child before birth. But would it not be just as reasonable to kill unwanted children after they are born? Would it not be more sensi-

ble, in fact, to wait and see if they can outgrow their rejection—to see if they are *really* unhappy?

Extend this reasoning further and we soon arrive at a shockingly simple solution to all the world's misery. To end unhappiness, why not mercifully exterminate the world's unhappy people? Instead of setting up relief agencies to aid the distressed and underprivileged, why not set up gas chambers for them? This suggestion may seem outrageous or absurd; but this is the kind of help proposed for unwanted children by some defenders of abortion.

Before we endorse this proposal, we should ask how many unwanted children have been consulted about it. How many of them have stated they would rather be dead than alive? How many have said they wish they had never been born? In fact, this idea is suggested only by adults, in response to the wishes and interests of adults.

It is ominous, surely, if anyone can justify the destruction of another human being simply because he isn't wanted. Jews were unwanted in Nazi Germany, and, like many other unwanted minorities, they suffered because of this. In this respect their plight was similar to that of many unwanted children; and if we apply to them the same kind of reasoning sometimes used to defend abortion, their extermination was morally justified.

Again, this conclusion may repel most civilized people, including those who see no evil in exterminating unborn children. But as recent history warns us, there may be others more coldly logical and brutally consistent. Given the excuse and the opportunity, they might not shrink from using our arguments and our precedents in a way we never intended. Some of the worst atrocities in modern times have been justified on the basis of principles adopted with the best intentions, without regard for their dangerous implications.

One such dangerous principle is the one that regards some human lives as less valuable than others. If we can apply this principle to devalue unborn children, we can also use it to devalue other human beings. In many societies, including our own, this already has been done with the newly born. But it could just as easily be applied to the aged and the sick, to the physically or mentally inferior. It could be used against anyone regarded as surplus or inconvenient, and no

one can be sure it might not some day be used against himself.

Before we accept abortion on this principle, we should ask where it might lead us. Do we really care about equality before the law, or are we willing to undermine this very basis of all justice? Do we believe in the paramount worth of individual human life, or are we willing to live in a beehive where individual lives are freely expendable?

Undoubtedly, those now pressing for easier abortion laws are concerned with real and serious problems. Abortion may appeal to them as a dramatically simple solution, just as violent revolution has appealed to some political reformers. But abortion is a destructive answer, evil in itself and in its implications. Instead we need constructive solutions which will not destroy those things we ought to cherish, or open a whole Pandora's box of other evils.

Some of these solutions are already near at hand. With the swift advance of medical knowledge, we now can cope with the hazards of pregnancy without resorting to abortion. Our need today is not to broaden the medical grounds for abortion, but to provide every pregnant woman with the best possible medical care. Any medicare plan should give this high priority, and we should implement this part of the program without delay.

By providing better care for the mother, we can also improve her baby's chances of being born without defects. We must try harder, certainly, to protect them both from child-damaging diseases like German measles. To this end, we should devote more of our resources to developing methods of mass immunization against these diseases. Once we have perfected these techniques, such protection should be as routine as inoculation against polio, diphtheria or whooping cough.

When children are born defective in spite of our precautions, we still can do a great deal to help them. In fact, we can and ought to do much more than we are doing now. As a matter of right, a defective child should receive free of charge the full benefits of modern corrective medicine. Moreover, the extra financial burdens in caring for such children should be borne by the state. If we can spend large sums on the care of prisoners, we can do no less for defective and disabled children.

We should do more, also, for mothers who cannot cope properly with the task of raising

their families. Some need direct financial aid and better housing; others may require professional counselling and advice; and some may need domestic help or part time day-care of homemaker services. For children whose mothers are still unable or unwilling to care for them, we should provide adoption services—not only for babies born out of wedlock, but for those born to married women as well.

These are just a few of the possible alternatives to abortion, showing compassion for both the mother and her baby. No one would pretend they are cheap or easy solutions; but they are more humane, more ethical and more constructive than the killing of an unborn child. By contrast, abortion may seem a bargain-price answer to many problems; to adopt this answer, though, is to place a bargain-basement value on human life.

True, we may never put an end to abortion with even the most stringent laws; it is also true that we may never put an end to murder, theft, or income-tax evasion. Properly supported, though, the law can be an important moral and educational force. This fact is often cited on behalf of civil-rights legislation; it applies just as validly to abortion laws.

To this end, the Criminal Code should certainly be revised. It should acknowledge realistically that an unborn child is a human being, and abandon the present fiction that denies it. This fiction was adopted when deliberate homicide was invariably punished by death; but there is no excuse for it today.

Instead of easing our abortion laws, we should clarify and tighten them to prevent their abuse. Section 209 of the Criminal Code permits abortion to save a mother's life; but some doctors and legal officers have stretched this loophole to suit their own opinions of what the law should be. It is scandalous when doctors can twist the law as no other group is allowed to do, and perform abortions when the mother's life is in no serious danger. The Code should plainly outlaw any abortion when a pregnancy poses no direct and immediate threat to life.

It should be a criminal offence, also, to remove any human being from this country for the purpose of killing him. And this should apply to the killing of an unborn child by abortion. If a Canadian resident goes abroad and obtains an abortion, this should be *prima facie* evidence of illegal pur-

pose in leaving the country; and anyone wilfully aiding or conspiring in this purpose should likewise be held criminally responsible. In contrast to easy abortion laws, this would be a genuinely progressive move in defence of human rights.

But laws can neither deter nor educate unless we enforce them. In theory, abortion is punishable by up to life imprisonment; in fact, however, a professional abortionist may be punished more lightly than a shoplifter. In Toronto, Judge Samuel Factor imposed a six-month suspended sentence for abortion. This must be one of the lightest sentences on record for any offence, including overtime parking; and yet, the case involved no mention of rape or incest, no fear of bearing a deformed child and no special danger to the mother's health.

Modern views of justice have no place for savagely vindictive punishments. But there is no excuse, either, for permissive sentences which mock the law by condoning and encouraging abortion. Some leniency may be in order for the mother because of her emotional state; but the professional abortionist should receive a punishment that reflects the gravity of the crime. Any judge who condones this form of homicide should be barred from passing sentence in abortion cases; or, alternatively, we should make the sentence mandatory.

It should be possible, too, for any citizen to prosecute a legal officer who refuses to enforce our abortion laws. This should apply not only to policemen, but also to crown attorneys and provincial cabinet ministers. Some officials will crack down hard on illegal picketing or sweepstakes, but stand approvingly by while hospitals authorize illegal abortions. In doing so they make themselves accessories to serious crime; and without intending to, they lend a measure of respectability to the back-room abortionists outside the hospitals.

Finally, we must fight abortion with public education, starting in the schools. A sound program of sex education would foster the realization that abortion is the killing of a human being, the same in effect as murder. Unless we recognize this fact ourselves, the laws we make can have no just or rational foundation.

We must have compassion for any woman distressed by an unwanted or worrisome pregnancy. But our concern for her should not mean contempt for the life of her baby. Instead our compassion should embrace them

both, since both are human beings entitled to justice and mercy. If we are truly just and merciful, we will fight against abortion as against a disease—and resist any move to legalize or promote it.

## APPENDIX "G"

Brief by Mrs. Olive Heron, Scarborough, Ontario

To the Health and Welfare Committee on the question of abortion:

Various groups are agitating for a change in Canada's laws pertaining to abortion. While I don't doubt the good intentions of many of these groups, I feel a lot of shallow thinking prevails today in connection with this important subject. Abortion is a serious matter. It is the snuffing out of newly-formed human life, in my opinion a modern-day "slaughter of the innocents."

I believe the rights of the individual begin in the womb. This includes the right to live. Everyone in a civilized society has the obligation to respect that right. The legalization of abortion in Canada would cause our great country to step backward into time. We would enter a second "Dark Ages", where human life counted for little. For abortion, after all, is only slightly removed from infanticide. And when we find ourselves killing off our unwanted babies, why not our old people, our crippled, our blind and our sick? Why not all inmates of prisons and mental institutions? Think of the money we would save! No, the thought is repulsive. Yet legalizing abortion could in time trigger off such dastardly events.

A little over twenty years ago our country was engaged in a war against a mass-murderer called Hitler. Among other things, this madman was in favour of abortion. He was anxious to get rid of prenatal Jewish babies on a compulsory basis. Today we are being asked to be allowed to get rid of unwanted prenatal Canadian babies on a voluntary basis. Compulsory or voluntary, of course, the injury to the unborn child is the same. What we have to guard against is adopting the moral standards of a maniac. The resulting degeneracy could lead to the government

having control over life and death of our citizens.

Proponents of abortion cite Japan and Sweden as countries where abortion is now legal. The implication is that if it is good for them, it is good for us. This, of course, is a completely illogical argument. I am certainly not convinced that it is good for them. Besides, there are many aspects of living in these countries which thinking Canadians would be reluctant to adopt. Their higher suicide rate is one of them.

I want to emphasize that while I object to all abortion in principle, I can at least be tolerant of the present laws which allows abortion when medical evidence indicates that a woman will die if her pregnancy continues. I neither ask nor expect any woman to be a martyr for my sake. Even so, medical science has made tremendous advances in recent years. The successful bearing of children is the happy lot today of some women who most certainly would have died a few years ago because of the effect of pregnancy on their health. And medical science is progressing all the time.

What I really object to is the "convenience" abortion which would be the end result of any relaxation of our present laws. The unborn would lose whatever rights they now have, and with government approval. It would eventually be legal for women to get rid of the children they are carrying for all sorts of health and economic reasons, real and fanciful.

I believe that the destruction of these children is too high a price to pay because one mother wants to avoid swollen ankles, or another is anxious to buy a colour television set. It is a step towards national decadence when women are permitted to sacrifice human life to avoid an inconvenience or just to suit their personal whims. Even when more serious reasons are given, such as premarital pregnancy or the likelihood of bear-

ing a deformed child, I insist that the child has a right to live.

The New Jersey Supreme Court earlier this year had something to say about this. It upheld a lower court's decision to dismiss an action against a doctor for not warning the parents of the possible results of German measles on the mother's pregnancy, presumably so that they could seek an abortion. Their child was born imperfect. This is what the court said: "Though we sympathize with the unfortunate situation in which these parents find themselves, we firmly believe the right of the child to live is greater than and precludes their right not to endure emotional and financial injury."

The court could have gone further. It could have stated that never before has the future looked so bright for retarded and deformed children. For just as medical science is today making it possible for children to be born of women who formerly would have died in childbirth, so is it learning how to improve the condition of what were once considered hopelessly abnormal children. This is the day of the surgical transplant, the heart pacer and of bold new techniques in brain surgery. We are on the threshold of discoveries which will bring health and normal living to virtually any child suffering a defect.

It is a pity that those affected most by abortion cannot speak. These are the pre-born victims themselves. No one has yet found a method of asking them how they feel about this controversial subject. But if they could give an opinion, I know, and science will back me up, that they would oppose abortion as the most viscious butchery. It is a law of nature that all living organisms in both the plant and animal world struggle constantly to survive. This inherent desire to live and to avoid death is the strongest instinct within us. From the moment of conception the beginning human being gives every indication of wanting to live. In connection with the legal action mentioned above, the New Jersey Supreme Court also stated, "It is basic to the human condition to seek life and hold on to it..."

A favorite expression of the pro-abortionists these days is that every child has the right *not* to be born. Without being able to consult the child on what he feels his rights should be and with all the evidence pointing in the direction that the child wants to live, this statement is, of course, absurd. I like to take a more positive attitude. I not only

believe that every child, once conceived, has the right to be born but that he is entitled to as rich and full a life as society can provide. If he is unfortunate enough to have been born with a handicap, he is entitled to the best medical treatment available. I believe this of the child born in wedlock, I believe it of the child born of an illegitimate relationship, and I believe it of the rapist's child.

One of the loudest arguments in favour of abortion is that it should be made legal because thousands of women have criminal abortions. But isn't this like saying that the criminal act of shoplifting should be made legal because thousands of persons engage in shoplifting? I think so. In either case someone gets hurt.

If criminal abortion abounds, it is because the feelings of fear, ignorance and irresponsibility abound. It is up to society to improve conditions to the point where abortion will no longer be sought. This encompasses everything from instilling in youngsters responsible sex attitudes to ensuring that no family is destitute because of an additional child to a willingness to provide financial assistance to children born handicapped—such as was done for the children of the unfortunate thalidomide incident. This type of action is positive.

Abortion, on the other hand, is negative. It destroys rather than builds. It is regressive rather than progressive. It is an escape from one's problems rather than a facing up to them. Its practice on a wide scale cannot help in time but breed an enfeebled society with a jellyfish mentality.

Besides this, the carrying out of an abortion is a cowardly act, because its innocent victims are completely defenceless. And it is an utterly demeaning act, because it places human life on a level with that of soulless cattle, not "made in the image and likeness of God".

Surely Canada has something better to offer its citizens in this centennial year than legalized abortion. Our Judaic-Christian feeling for the sanctity of human life demands it. We must be wary of adopting the primitive attitude towards the unborn of certain other countries which permit abortion, and calling this "enlightenment". Our country will be great, and truly enlightened, only as long as our children grow up with a reverence for human life. Let history record that Canada started the second century of its existence by deciding to retain this important quality.

## APPENDIX "H"

## WHEN DOES HUMAN LIFE BEGIN?

By Dr. Edward L. Kessel

Professor and Chairman, Department  
of Biology, University  
of San Francisco.

Many people claim to believe that abortions at any stage of development should be permitted because they hold that up to the time of birth the child is not a child at all, but instead, some form of lower animal life. As a biologist I cannot accept this conclusion.

Whether they know it or not those who accept this view are contradicting science because their belief is based on a theory which was rejected by science long ago. This was the Recapitulation Theory promulgated by Haeckel toward the end of the last century. It held that each individual animal, including man, passes through the exact same stages in its development that its species went through in its evolution. In other words the embryo of man becomes first a copy of his protozoan ancestor, then a worm, a fish, an amphibian, a reptile, an insectivore mammal, an ape-like creature, and finally, but not until then, a human being. According to this view, for example, a doctor can go fishing in the uterus and thereby cause the abortion of a fetus in the fish stage, and do so with no more moral responsibility than if he had gone fishing in a lake.

As already stated, this view is neither scientific nor modern, for it was shown long ago that Haeckel was wrong. Taking the embryological development of man, for example, it is far from being a duplication of his evolutionary history. His individual development takes place in a very different environment from that in which his evolutionary development occurred and mutations of ancestral genes have resulted in many profound changes in the embryo—some of the stages that were present in man's evolution do not occur in the development of the child, and new stages which were never in man's evolution are to be found in the development of the child. The result is that in spite of some general resemblances to evolutionary stages, every stage of the developing child is

uniquely human. It is never just a worm, or a fish, or a salamander. From the very beginning of its development the human offspring is uniquely human because mutations of ancestral genes have produced human genes which no protozoan, or worm, or fish, or other ancestral stage ever possessed.

The genes are passed from parents to offspring through the egg and the sperm cell. They come in packets which we call chromosomes, but the genes rather than the chromosomes are the more significant units. The egg and the sperm cell each contribute half of the full complement of genes required for the complete individual, and the fertilized egg, or zygote as it is technically called, must be regarded as the child, even in this simplest stage of organization, because it possesses all of the human genes that a human being can ever have, even as an adult.

As embryonic development proceeds through cleavage and organogenesis, all according to the DNA code inherited through the genes, we see human life in its most active stages. Recent investigations in molecular biology show chromosome puffs, expanding areas, first here and then there on the chromosomes. These puffed areas are interpreted as representing active genes, with their substance loosened up and facilitating RNA production so that these messengers can be sent into the cytoplasm of the cells to preside over life processes including the very important synthesis of proteins. It is important to note that scientific tests have determined that protein patterns peculiar to human life are produced by these processes.

These modern discoveries of science make it clear that functioning genes are the primary indicators of life, that they function at different times of life according to the work which they have to do. Some function only after birth, but the majority do their work during the embryonic development, while the child is living in the uterus. This shows that human life not only occurs before birth but that long before birth it is proceeding at a faster pace and with greater urgency than it does following birth.

In my opinion the scientific evidence shows conclusively that each human life is initiated at the time of fertilization of the egg by the sperm cell to form the child in the zygote stage. In their scientific research biologists invariably regard the zygote of animals as the first stage of the new individual. It is not scientific to fail to apply this same principle to human development. Therefore, to destroy

a child in any stage, from conception to infancy, involves the taking of a human life.

(Dr. Kessel is a Fellow of the American Association for the Advancement of Science; editor Wasman Journal of Biology; and author of more than seventy scientific research papers in various fields of biology, including embryology and genetics.)

## APPENDIX "I"

### ABORTION IS THE DESTRUCTION OF HUMAN LIFE

- (1) This is not just "potential" life, but an *actual living being*.

Everyone recognizes that a fetus or embryo is something that may die or be killed; even the Criminal Code speaks of "causing the death" of an unborn child. But how can anything *die* unless it is first *alive*?

- (2) Biology confirms that this is an *actual* life.

The essential properties of life, as biologists define it, are metabolism and reproductive origin (Encyc. Britannica); some definitions also add growth and irritability. An embryo or fetus exhibits all these properties from the time of conception.

- (3) A fetus or embryo is a *distinct individual*.

Although it grows within the mother, it has its own distinctive genetic makeup and its own metabolism, and soon develops its own heart, nervous system and other organs. Moreover, its blood may be of a type incompatible with the mother's.

- (4) A fetus or embryo is a *human being*.

It can be assigned to only one species—the *human* species, *Homo sapiens*. Moreover, its genetic mechanisms—its complement of genes and chromosomes—are uniquely human.

- (5) Whether we can *recognize* an embryo as human by gross observation is irrelevant to this point.

The identity of innumerable things is often hard to discern by ordinary observation; e.g., a record tape of a Beethoven symphony looks the same as the tape of a folk-song concert. Any difficulty we may have in *recognizing* an embryo as human in no way alters the *fact* of its humanity.

- (6) By more refined observation we *can* recognize an embryo as human.

Biologists have found that protein patterns *peculiar to human life* are produced by the life processes within the cells of an embryo.

- (7) Even to gross observation, the embryo is recognizably human early in pregnancy—*before* most abortions are performed.

"The face with its bulging brow is unmistakably human early in the seventh week... The external features of the human organism thus are established before the embryo is an inch long (i.e. in the second month) and subsequent growth merely modifies the proportions without adding new surface structures."

—Article *Embryology, Human*,  
Encyc. Britannica

- (8) The embryo or fetus is an *actual* human being, and not just a "potential" one.

To call it just "potentially" human is to make a false assumption about the nature of living things. Being human is not a static condition, like being a statue or some other inanimate object; for the human body goes on changing throughout life. We are conceived, we are born as babies, we become older children, adolescents and young adults,

then pass into middle age and grow old. There is no logical reason to regard one particular age as more or less human than the others.

- (9) An unborn child is a human being *whether or not it is "viable"* outside the womb.

To define a human being in terms of "viability" is not only arbitrary, but also quite unworkable. Many full-term babies are non-viable because of congenital defects, but we still regard them as human beings. Moreover, viability is a relative thing; even a year-old infant cannot survive without special care by its mother or mother substitute.

- (10) The humanity of an unborn child cannot be judged or measured in quantitative terms.

Humanity is not a matter of size, or even the number of brain cells; if it were then men would be more human than women. It is not even a matter of mental efficiency; if it were, then a chimpanzee would be more "human" than a two-year-old child (cf. Ralph Linton, *The Study of Man*).

- (11) It cannot be proved that "an embryo feels no pain".

Although an embryo's nervous system is not fully developed, it still is capable of transmitting nerve impulses. "The voluntary muscles are able to contract in response to external stimuli (touch or pin prick) after the eighth week, and spontaneous movements may begin as early as 9½ weeks." (*Embryology, Human*, Encyc. Britannica)

Ottawa Committee for the Defence of Unborn Children.

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HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1967

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STANDING COMMITTEE  
ON  
**HEALTH AND WELFARE**

*Chairman:* Mr. HARRY C. HARLEY

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MINUTES OF PROCEEDINGS AND EVIDENCE

No. 7

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TUESDAY, NOVEMBER 14, 1967

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Respecting the subject-matter of  
Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

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WITNESS:

Mr. R. G. Coleman of London, Ontario.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1967

STANDING COMMITTEE

ON

HEALTH AND WELFARE

*Chairman:* Mr. Harry C. Harley

*Vice-Chairman:* Mr. Gaston Isabelle

and

Mr. Allmand

Mr. Ballard

Mr. Brand

Mr. Brown

Mr. Cameron

(*High Park*)

Mr. Chatterton

Mr. Cowan

Mr. Enns

Mr. Forrestall

Mr. Howe (*Wellington-  
Huron*)

Mr. Knowles

Mr. MacDonald (*Prince*)

Mrs. MacInnis (*Vancouver-Kingsway*)

Mr. Matte

Mr. O'Keefe

Mr. Orange

Mrs. Rideout

Mr. Rochon

Mr. Rock

Mr. Rynard

Mr. Simard

Mr. Stanbury—(24).

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

TUESDAY, November 14, 1967.

(8)

The Standing Committee on Health and Welfare met this day at 11:15 o'clock a.m. The Chairman, Mr. Harry C. Harley, presided.

*Members present:* Mrs. MacInnis, Mrs. Rideout, and Messrs. Allmand, Ballard, Cowan, Harley, Howe (*Wellington-Huron*), Isabelle, Knowles, O'Keefe, Matte, Rock, Simard, Stanbury (14).

*In attendance:* Mr. R. G. Coleman, of London, Ontario.

The Committee resumed consideration of the subject-matter of Bills C-122, C-123, and C-136.

The Chairman referred to the matters discussed by the subcommittee at its last meeting, and extended to the Members the invitation of the National Film Board to a private showing of its film on abortion.

The Committee discussed the requests of groups who wish to present briefs in January and February. The Chairman read into the record the schedule of meetings up to December 19.

Receipt was acknowledged of resolutions, briefs and other documents addressed to the Committee.

*Agreed,*—That the brief from the Unitarian Church of Vancouver be printed as an appendix to this day's proceedings (*see Appendix "J"*).

The Chairman introduced Mr. R. G. Coleman.

The witness made a preliminary statement and was questioned.

*Agreed,*—That the Abortion Act 1967 as passed on October 27, 1967 by the British Parliament be printed as an appendix to this day's proceedings (*see Appendix "K"*).

Mr. Coleman was further questioned.

The questioning concluded, on behalf of the Committee the Chairman thanked the witness for having appeared before it and at 12:25 p.m. the Committee adjourned to 11 o'clock a.m., Thursday, November 16, when the Catholic Physicians Guild of Manitoba will present a brief, and Dr. J. A. Tallon of Cornwall, will be heard.

Gabrielle Savard,  
*Clerk of the Committee.*



## EVIDENCE

(Recorded by Electronic Apparatus)

**Tuesday, November 14, 1967.**

• (11:14 a.m.)

**The Chairman:** Ladies and gentlemen, we are ready to start today's meeting.

The Steering Committee met since our last meeting, and discussed the following suggestions. First of all, that by Mr. Rock, of calling a doctor who had lost his licence. This was considered and the members did not agree with this suggestion.

**Mr. Rock:** Did they give any reasons?

**The Chairman:** Perhaps we could discuss that privately.

Secondly, the calling of Dr. Margaret Thompson of Toronto General Hospital, who is a geneticist. In view of the fact that we are going to hear a geneticist from Montreal it was thought that this was not necessary at this time.

Thirdly, there was the getting of evidence from Detective-Sergeant William Quennell of the Morality Bureau of Toronto Metro Police, Toronto Police Department. I was to have a telephone conversation about this but I have not had it as yet.

Those were the matters that were brought before the Subcommittee on Agenda and Procedure.

I should also mention that I have been in communication with the National Film Board. They are quite willing to show the Committee members, *in camera*, the film in question. Perhaps we should agree to that suggestion. We will have to go to the National Film Board on Kent Street for this because of the equipment that is required to show it.

**Mr. O'Keefe:** Why *in camera*? Has not part of this film been broadcast?

**The Chairman:** They have shown only parts of the film. We will see the unedited film, and *in toto*.

**Mr. O'Keefe:** Did they think it would shock people if they saw it all?

**The Chairman:** This is my interpretation of what they said; they felt that the film was not suitable for general viewing.

**Mr. Cowan:** Did Canadian taxpayers pay for the whole film?

**The Chairman:** Yes, Mr. Cowan.

It is just a question of when. Would the Committee members agree to seeing this film some evening?

**Mr. Cowan:** May I bring Margaret and Grace?

**The Chairman:** Most certainly.

**An hon. Member:** Princess Margaret and Princess Grace?

**The Chairman:** Would members be willing, on a week's notice, to attend on a Tuesday or a Thursday night to see the film, rather than take up the time of the Committee during the day?

**Mrs. Rideout:** You mean outwith the sitting of the House, Mr. Chairman?

**The Chairman:** That is right. The film runs for about thirty minutes. We could see it at seven o'clock on an evening, if the Committee is agreeable.

I understand that they are also willing to have present the people who made the film and researched the background for it, so that they may answer any questions we might have.

**Mrs. MacInnis (Vancouver-Kingsway):** Could we see it at seven o'clock on a night when we are off from six to eight?

**Mr. Knowles:** We could arrange that.

**The Chairman:** I am not sure. If we could predict those nights we probably could.

**Mr. Knowles:** That can probably be arranged.

**The Chairman:** We can try.

**Mr. Knowles:** Providing the House Leader has the consent of his caucus.

**The Chairman:** This brings up the matter of appearances before the Committee. We are now scheduled pretty solidly twice a week from now until December 19. We also have another five groups or individuals who seek to appear before the Committee. Some of them are not ready to appear before Christmas and others could be but we do not have the time. Is the Committee willing to sit an extra day a week to hear these before Christmas or do we now assume that we are going to have to wait until after Christmas? I ask this in view of a press report of today that this Committee will be receiving another topic for consideration in the near future.

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, what groups are scheduled to appear before Christmas?

**The Chairman:** You mean the schedule at the moment?

**Mrs. MacInnis (Vancouver-Kingsway):** Yes; before Christmas.

**The Chairman:** Thursday, 16 November, the Catholic Physicians Guild of Manitoba and Dr. J. A. Tallon of Cornwall; Tuesday, 21 November, Dr. Clarke Fraser, Montreal, a geneticist; Thursday, 23 November, Dr. Yves Lefebvre, Gynecologist, Family Planning Association; Tuesday, 28 November, Mr. Dehler, a Barrister from the city of Ottawa; Thursday, 30 November, Mr. Holmes and Mr. Hackett from the Toronto area; Tuesday, 5 December, the Presbyterian Church; Thursday, 7 December, the United Church; Tuesday, 12 December, the Canadian Welfare Council; Thursday, 14 December, the Anglican Church; and Tuesday, 19 December, the Canadian Catholic Conference.

The others who would like to come—some of whom are ready now or will be in the near future, and some of whom cannot be ready until perhaps January or February—are representatives of the Canadian Abortion Law Reform Association, The Canadian Association of Social Workers, The National Council of Women of Canada, Family Planning Centre and perhaps The Vanier Family Institute.

**Mr. O'Keefe:** Mr. Chairman, can we not have a balance among those witnesses? I know I have missed a few meetings, but it appears that most of our witnesses are those who are strongly in favour of abortion. Would it not be more just to balance the type of witnesses we call?

• (11:20 a.m.)

**Mrs. Rideout:** Perhaps we have not got any...

**The Chairman:** We can only hear those...

**Mr. Rock:** Who are very much against...

**Mr. O'Keefe:** I realize that. I am sorry.

**The Chairman:** We can only hear those people who say they want to appear before us and the Chairman is not always aware of what position people are going to take. For instance, concerning the church groups, I am not sure what the stand of the Presbyterian Church, the United Church or the Anglican Church, is going to be.

**Mr. O'Keefe:** It was just a thought, Mr. Chairman.

**Mr. Stanbury:** Mr. Chairman, is it necessary to have individuals appearing as the only witnesses on each of those days? Do they represent any national groups or are they simply individuals wishing to give us their views?

**The Chairman:** Some of them represent groups. There are some individuals, but usually in the case of individuals, they appear on days when no group is ready to appear in any event.

**Mr. Stanbury:** Would it be possible for other individuals who have asked to appear to be heard on the same day?

**The Chairman:** It is possible but this is a little unwieldy when we have a church group whose stand we do not know appearing on the same day as an individual whose stand we also do not know.

**Mr. Stanbury:** I am suggesting if you have two days when individuals are going to appear that if there are other individuals who wish to appear they be asked to come at the same time rather than after Christmas.

**The Chairman:** Yes, I agree, but the ones after Christmas are not individuals; they are all groups. We have tried to take care of all the individuals. For instance, at this Thursday's meeting we are having The Catholic Physicians Guild of Manitoba and in addition an individual physician who wants to present views on his own behalf. We are having both of them on the same day. It is a question now of whether we extend beyond Christmas or whether we try to use a Friday morning, or something of that kind.

**Mr. Knowles:** If a Friday morning would finish the job before Christmas that would be all right, but we still have to meet after Christmas anyway and, you know the difficulties of Friday morning sittings.

**The Chairman:** I should say that if we agree to meet at 9:30 o'clock on Fridays, at least two of those five groups I have mentioned will not appear because they say they cannot appear before they have an annual meeting which might be in January or February and I think it is a shame to hold off for that length of time.

**Mr. Knowles:** It looks as though anybody who is waiting for an abortion will just have to wait.

**The Chairman:** I am afraid so.

**Mr. Isabelle:** Mr. Chairman, could we not hear all those individuals who want to appear before us in one morning?

**The Chairman:** No, this is not possible because, for example, the witness that we have this morning, an individual, is the only gentleman who is ready for this date. The other people said: "Well, no it is too soon." We did have two groups for the day that Mr. Dehler is to appear but one of the groups said that they would not be ready in time so we have had to drop some of them.

**Mr. Knowles:** I think we will leave it in your hands, Mr. Chairman. You are the doctor.

**The Chairman:** In that case we will be meeting some Friday mornings to try to hear the witnesses before Christmas. Is this agreed?

**Mr. Cowan:** Can we raise a quorum on a Friday morning?

**Some hon. Members:** Agreed.

**Mr. O'Keefe:** Mr. Chairman, I do not want to raise an objection to Friday morning sittings but this is a pretty important subject and I do not think it should be rushed. Anybody who wants to come before this Committee should be allowed to come.

**The Chairman:** Yes, within the time limits that we have mentioned.

I should say that while you were away we passed a motion saying, I think, that we would only hear people, until the first of December or the end of November. We would

be willing to accept invitations from them up until that date—not that they could not appear later—but we would like to hear from them by that date.

**Mr. O'Keefe:** That is reasonable.

**The Chairman:** That would be by the end of November.

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, I think from what you have said that neither the National Council of Women of Canada nor that other large national group will be able to appear. I do not think they can be heard before Christmas no matter how you do it, because I do not think they are ready.

**The Chairman:** They are not ready.

**Mrs. MacInnis (Vancouver-Kingsway):** Therefore, we will have to run over after Christmas anyway.

**The Chairman:** Not necessarily; we can just agree not to hear them because they are not ready.

**Mrs. MacInnis (Vancouver-Kingsway):** No. No, they...

**The Chairman:** For instance, one of the groups has told us that they cannot be ready before February. I do not see holding off a report while we wait for one witness.

I should say that a lot of these people were notified away back in July that we would be having our hearings early in the fall and we would like them to be ready, and they just are not ready.

**Mr. Knowles:** That is a presentation that will have to be aborted!

**Mr. Stanbury:** And they wonder why Parliament is slow! You would think they would have their minds made up now, like most of us.

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, I think we should do something else. At this meeting I think we should set a definite deadline after which we will not hear people because I think it is the only fair thing to do. We told these other people if they signified by December 1 that they intended to present a brief they could come on in the new year. Now, I think there ought to be...

**The Chairman:** No; that we would consider it.

**Mrs. MacInnis (Vancouver-Kingsway):** I think we should now set a date after which we will not hear anybody, and then hurry those up; do not leave them dangling and then say we cannot wait until February.

**The Chairman:** I am quite willing to say that the hearings will close on December 20 and we will give everybody a date prior to that time. If they do not come...

**Mrs. MacInnis (Vancouver-Kingsway):** I would like to move that, Mr. Chairman.

**The Chairman:** Perhaps you could leave it with the Chair.

**Mrs. MacInnis (Vancouver-Kingsway):** All right.

**The Chairman:** It is possible that the Chair might get into some difficulties with dates, too.

**Mr. O'Keefe:** Mr. Chairman, I object to any cut-off date.

**The Chairman:** That is fine. Perhaps it would be worth-while putting on the record in summary form some of the representations we have received. We would like to acknowledge receipt of the following: copy of a resolution passed by l'Association fraternelle des Dames Hélène de Champlain, The Fraternal Association of Les Dames Hélène de Champlain opposing liberalization of the present laws on abortion; a letter from the Catholic Women's League of St. Andrew's West to the same effect; a press communiqué from The Family Institute of Montreal which disapproves of abortion and proposes, as solutions to the problem, family planning, education, social welfare measures, etc.; a resolution from the National Council of Jewish Women of Canada urging liberalization of the sections of the Criminal Code respecting family planning and abortion; recommendations of The Congress of Canadian Women contained in the brief received by the Committee in 1966—that was the Committee on birth control—in favour of changes in birth control legislation; and a brief from The Unitarian Church of Vancouver. This is a brief that you received some time ago; it is this yellow-covered brief on abortion. It is an excellent brief. It is obviously well prepared and I think it would be fair to print it as part of today's record. Is it agreed?

**Some hon. Members:** Agreed.

**The Chairman:** The particular letters and representations that I have referred to and correspondence received are all in the hands of the Clerk. Anybody who wishes to see them in more detail than I have given are certainly free to do so.

We now have before us this morning a private individual, Mr. R. G. Coleman of London, Ontario, who wishes to speak to us about the Bill of the United Kingdom.

**Mr. R. G. Coleman (London, Ontario):** Mr. Chairman, ladies and gentlemen, I feel that this particular problem of society has to be resolved by reform in three different areas, namely: birth control, abortion and sterilization. One cannot discuss abortion without correlating it to the others, so with your permission I will discuss the relation of these subjects to abortion reform.

**Birth Control** Public birth control clinics, such as the ones already operating in our big cities, are a definite necessity if we are to reduce the appalling number of criminal and self-induced abortions. The most important point is that these clinics must be brought to the attention of all our people and not hidden away like a skeleton in the closet. Attendance should certainly not be restricted by one's marital status or as a result of one's poverty. I would like to see anyone from the age of 16 allowed to receive instruction and, at the discretion of the interviewing medic, be given a prescription. You may ask, "Why so young"? Well, for two reasons: first, as you know, pregnancy is possible around the age of 13, and second there is no evidence to show that the absence of birth control will deter teenagers from having intercourse. The absence of birth control information and materials is a major factor in quite a percentage of abortions in the young unmarried age groups and these particular abortions are all criminally procured. I would ask this Committee to give birth control an honourable name in the eyes of this society and then I am sure you will find that many more women will accept it rather than risk having an unwanted child or a criminal abortion.

• (11:30 a.m.)

I would ask this Committee to give birth control an honourable name in the eyes of this society and then I am sure you will find that many more women will accept it rather than risk having an unwanted child or a criminal abortion.

Now, to our most controversial subject abortion. We all know of the sordid and

despicable acts of the backstreet abortionist; I do not now refer to the medical practitioner who will operate illegally but to the types who carry out their operations in unhygienic places and with dubious methods. Many women who have had this type of abortion have been found lying in the gutter hemorrhaging and close to death. If they are lucky, someone will discover them in time so that the medical profession can save what is left of that life. I am sure you ladies and gentlemen are quite aware that these situations are much more commonplace than the news media care to report.

Should we not adapt our laws to prevent this sort of thing happening? Termination of pregnancy is required by all levels of society by the retarded and the intelligent, by the rich—who can afford to employ a high priced medic—and by the poor who, if they do not know of a cheap abortionist, will abort or attempt to abort themselves. All it needs is an unwanted or untimely pregnancy and the desperation starts building up from there. Or, maybe the woman has had an attack of german measles at the vulnerable time or taken something along the lines of thalidamide. Then even the thought of having a mentally or physically deformed baby is sufficient to send that woman halfway to the abortionist, for what chance has she if she goes to a medical practitioner who respects our cruel and inhuman law? We cannot, of course, deal with this proposed legislation without considering the views of the churches. I do not wish to discuss any of the religious dogmas but I would like to point out one thing: of the Christian churches the United Church of Canada, the Church of England, the American Episcopal Church and a number of other protestant churches have come out in favour of reform. Also, opinion polls have proven that the majority of people in all the churches of the western world are in favour of abortion reform.

In a poll taken by Modern Medicine of Canada, which is a disinterested party, it was found that 85 per cent of the doctors replying favoured liberalizing the abortion law. These previous points support my claim that the vast majority demand a more reasonable law. One of the main points of issue seems to be where to draw the line, if indeed it can be drawn, as to when the foetus is considered human. It is here that I wish to quote our present Criminal Code, section 209 (1):

Everyone who causes the death of a child *that has not become a human*

*being, in such a manner that, if the child were a human being...*

Now this, our present law, certainly implies that there is a difference between a human being and an embryo or a foetus in its early stages.

I would now like to mention this suggested Bill of which I have supplied an up to date copy which now has been passed and given Royal Assent by the British Parliament. With reference to paragraph 1(a) that the continuance of the pregnancy would involve risk to the life of the pregnant woman and of injury to the physical or mental health of the pregnant woman or any existing children of her family greater than if the pregnancy were terminated, what need I say in defence of the first part which grants abortion in order to save the woman's life since it is already written in the law that termination of pregnancy under that circumstance is lawful? Indeed I do strongly urge you to consider the woman whose health will be endangered by having a particular child and more especially if she already has a family, and of her capabilities of looking after that family if her health deteriorates. In other words I ask that the woman's health plus the wellbeing of her family be considered against *the potential life of an unwanted child*. This paragraph is also very important in so far as the wording permits a defective and the victim of rape or incest to be granted an abortion.

And so to the section on deformities, which by many is considered to be of equal importance to the first section. I have already mentioned how the thought of a deformed child is liable to affect the mother. Now let us consider these deformities and our increasing knowledge in this area. Two of the causes of deformities, german measles and thalidamide are well known and we are gradually learning of other causes such as the chromosome abnormalities of the mongoloid and certain other retarded. One of the more recent discoveries was by Drs. Steele and Bregg at Yale University who, by their chromosome test on the fluid from the uterus, succeeded in not only predicting the sex of the foetus but also they can predict certain abnormalities. Now, this test is still in its early stages but it is a positive step.

So, ladies and gentlemen, in the light of this increasing knowledge we must now ask the question: If we have reason to think that this potential child is or will be deformed, are we to say to it "you must be born and suffer the consequences" or are we to react

with compassion and mercy as I am sure the Supreme Being means us to when he reveals such knowledge to us?

I would now like to go to the paragraph where it answers the question, who authorizes or who undertakes the operation?

...when a pregnancy is terminated by a registered medical practitioner if two registered medical practitioners are of the opinion...

Now it is agreed that the best and safest period for a termination of pregnancy is before the foetus is 12 weeks old, so it is in the interests of the prospective patient that the procedure be as simple and as fast as possible. If one were to insist on a panel to deal with abortion applications I can assure the Committee that the foetus will be much older and consequently the danger of complications will increase considerably. The panel practice is most notably seen in Sweden where there is considerable delay in the processing of the application and this has resulted in terminations rarely being carried out before the twelfth week but taking place at 18 to 20 weeks, and I need not stress how undesirable and dangerous this can be, for the statistics prove it. By insisting on a panel you will be legislating a too complicated procedure and the woman will turn, as she does now, to the back street abortionist with all his dangers. This is why I urge you to recommend that the decision be left to two registered medical practitioners because in all cases of required abortion any type of practitioner is well able to make a wise decision. Also I would ask that no restriction be placed on who is to operate since it is known that no doctor will practise in a sphere of medicine in which he has had no training. This is restriction enough.

I would also like to bring to your attention the "conscience clause" in the U.K. Act which now reads an additional section protecting the rights of the patient.

I would finally like to touch on the subject of sterilization. There are many instances of necessity for sterilization to improve the health of a woman and to protect the health and the mind of a reluctant mother, but, because of fear of a possible court action the doctors will not operate. Consequently we have a potential case for abortion.

I have also spoken with a number of parents of retarded girls and they are continually in fear of their retarded daughters becoming pregnant and, believe me, after bringing

up a retarded child this can be done without. Here are just a few reasons why we need these sterilization laws to protect the medical profession from any later legal action.

• (11:40 a.m.)

In conclusion, ladies and gentlemen, I beg you to legislate for our next hundred years; not what we should have had for our first hundred years. Thank you.

**The Chairman:** Thank you, Mr. Coleman. The meeting is now open for questioning. Mr. Stanbury?

**Mr. Stanbury:** Mr. Coleman, I would like to thank you for this obviously very heartfelt submission to the Committee. I wonder if you might like to take a minute to just explain your motivation in coming here and your background, so that perhaps we can understand it a little better.

**Mr. Coleman:** Well, when my attitude towards abortion reform, birth control reform, started it was at no particular point. I was introduced to the Abortion Law Reform Association of Great Britain approximately four years ago, at which time I started to take quite an interest, but I did not do anything actively until approximately one year ago. When I started to be interested in this there was no personal interest whatsoever, other than the normal experiences of life.

**Mr. Stanbury:** Your recommendation to the Committee is that we should recommend to Parliament enactment of legislation similar to the one which has just been passed in Britain. Do I understand your suggestion correctly?

**Mr. Coleman:** I suggest that it can be adapted to the Canadian way of life.

**Mr. Stanbury:** Are there any particular changes in adapting it that you would suggest?

**Mr. Coleman:** Well, there are, but not in the points about which I am particularly knowledgeable in so far as the hospital organization goes.

**Mr. Stanbury:** You are suggesting that in principle it is the sort of legislation we should have here?

**Mr. Coleman:** Yes, in any society.

**Mr. Stanbury:** Do you have any information that would elaborate on your suggestion that the news media perhaps are not being completely frank with us about the incidence

of criminal abortion? I think you mentioned the back alley butchery type of abortion was perhaps more commonplace than the media cared to report. Do you have any information which would support this suggestion, or is that just a feeling on your part?

**Mr. Coleman:** Well sir, I did not mean any slur on the news media.

**Mr. Stanbury:** No; it is a matter of getting as much information as possible.

**Mr. Coleman:** It is my opinion if they reported every instance of this, that our first-class newspapers would look like *Hush*.

**Mr. Stanbury:** Do you think there is a reluctance on the part of the daily press to report all the instances that come to their attention?

**Mr. Coleman:** No, sir; I think they have to decide which is more important; should they put everything on abortion in the paper, or should they also put other news in the paper. I think it is a matter of discretion, and I think in this respect they do not care to throw abortion cases at us continually.

**Mr. Stanbury:** In any event, there are not any specific figures or any supporting information that you would like to give us in that connection?

**Mr. Coleman:** No, sir.

**Mr. Stanbury:** You mentioned birth control clinics. This really is not on the point of our hearings today, but I wonder, in view of your mention of it, whether you really meant to suggest that the advice and materials from a birth control clinic should only be available to people from age 16 on? You have noted yourself that is hardly the beginning of the need for such information and material. I think the recommendation that this Committee made some months ago would not in any way limit the distribution of such material or the giving of such advice to people of 16 and over. I just wondered whether you intended to suggest that there should be a lower age limit for such advice.

**Mr. Coleman:** I was not suggesting it be a minimum age; I would just like to see it at this age because I feel, shall we say, that 16 is when one starts becoming more and more aware.

**Mr. Stanbury:** You do not have any objection to it being given at younger ages?

**Mr. Coleman:** If there is a reason, no sir.

**Mr. Stanbury:** You mentioned sterilization, and this was raised by the Medical Association, but I think they suggested that this was a matter of provincial law. There is not, as I understand, it, anything in the federal criminal code which specifically makes sterilization a criminal offence. Am I correct in that?

**Mr. Coleman:** I have never seen anything about it, but my point was that the medical profession, whether it is correct or not, seems to be rather, shall we say, scared of a legal action, not necessarily from our criminal courts, but from people on whom they perform the operation.

**Mr. Stanbury:** You mention women, but you did not mention men. You are not concerned about the same reluctance to perform vasectomies?

**Mr. Coleman:** Well, I understand, sir, that on men it is performed much more, even though it may be slightly illegal. I believe that there are many more cases done on men because it is a much simpler operation.

**Mr. Stanbury:** Well, I do not know whether it is a fair assumption that it is even slightly illegal, but I am really trying to determine whether there is any change in the federal law that you wish to suggest, or whether it is just a concern that you are expressing. I do not think that there is any federal law which prevents any kind of sterilization at the moment which is requested by the parties, and which medical authorities consider to be ethical.

**Mr. Coleman:** I know of none that forbids it; no, sir.

**Mr. Stanbury:** You do not have any suggestion for a change in our laws on this subject?

**Mr. Coleman:** Well, yes. I was reading about sterilization the other day, and according to that, in North America there are two states which have enacted laws permitting sterilization, thus protecting the medical profession. That is all; just two states.

**Mr. Stanbury:** Yes, I see.

**Mr. Rock:** Which states are they?

**Mr. Coleman:** Virginia and North Carolina.

**Mr. Stanbury:** I think the assumption by the medical profession was that any law of that kind would have to be provincial.

**Mr. Coleman:** I was not aware of that.

**Mr. Stanbury:** It does not involve the criminal law or the food and drug laws over which the federal government has control but, in any event, you know of no federal law that you would like to see changed in this area?

**Mr. Coleman:** No, sir.

**Mr. Stanbury:** Thank you.

**Mr. Isabelle:** Mr. Coleman, I do not think you answered the first question asked by my colleague, Mr. Stanbury. What is your profession or your occupation?

**Mr. Coleman:** I am a clerk, sir.

**Mr. Isabelle:** You are a clerk, thank you. Now you said somewhere that all the churches of the western world were for certain changes in the law concerning abortion. Are you not aware that the Episcopalian Church of England are for some changes, the Church of Scotland is against it, the Anglican and Methodist Church of England are also against it, and they join the Catholic Church against any change in the abortion laws. The Lutheran Church and the United Church are for some changes. Are you aware of these?

**Mr. Coleman:** Yes, sir. I think you misunderstood me; I said that the majority of all people in the various religions are for reform. I did not wish to imply that the churches were for reform.

**Mr. Isabelle:** I did not catch the word "majority". What is your definition of a registered medical practitioner as referred to in the United Kingdom Abortion Act 1967.

• (11:50 a.m.)

**Mr. Coleman:** I understand that a registered medical practitioner is any doctor who is accepted by the medical association and registered with it.

**Mr. Isabelle:** So, that means if one afternoon I decide to perform an abortion I could contact my two other colleagues and if they decided that it could be done, without having any experience, I could try to perform one because I am a registered medical practitioner. Is there nothing in the law to say that it can be done only by those who have special training in this matter, or can it be done by anyone?

**Mr. Coleman:** I said that any registered medical practitioner is well able to make a

wise decision. I am not saying that he is going to make the wise decision himself. If he thinks a case is beyond him he will naturally call in a gynaecologist or psychiatrist, and if there are any complications, naturally, these people become involved.

**Mr. Isabelle:** I believe the doctor should be more specific. I am sure that some doctors will try to perform abortions anyway because they are just as human as anyone else. I personally think that they should have been more specific in this Abortion Act.

**Mr. Coleman:** I believe, sir, this is what they were trying to stay away from making a law to say that certain doctors could do certain operations. I believe they were still trying to leave the medical profession free to decide amongst themselves.

**Mr. Isabelle:** So you have faith in the medical profession?

**Mr. Coleman:** Yes, sir. Where else can you turn?

**Mr. Isabelle:** Thank you.

**Mr. O'Keefe:** Mr. Coleman, I have a number of questions here that I have asked other witnesses and I had a suspicion what the answers would be. I was not clear, in your answer to Mr. Stanbury, what your profession is.

**Mr. Coleman:** I think I replied to Dr. Isabelle. I am a clerk.

**Mr. Stanbury:** Mr. Chairman, I was not interested in what his profession is; I wanted to know his particular interest and background in this field.

**Mr. O'Keefe:** Are you a Canadian?

**Mr. Coleman:** That is a good question, sir. Under the Ontario Bill of Rights I do not think I have to answer any sort of question like that.

**Mr. O'Keefe:** I do not embarrass you.

**An hon. Member:** It is immaterial.

**Mr. Stanbury:** Nor is it relevant, I think, Mr. Chairman.

**Mr. O'Keefe:** Mr. Coleman, you said that 85 per cent of a certain group of doctors answered in the affirmative, that they were in favour of abortion. What was this group of doctors, and how many answered?

**Mr. Coleman:** Sir, it is not available at this moment. I have it in my case. May I get the information?

**Mr. O'Keefe:** It is rather important, I should think, Mr. Chairman.

**The Chairman:** It was a survey done by a publication that I think goes to all medical practitioners in Canada.

**Mr. O'Keefe:** What I want to know is how many of those medical practitioners replied?

**Mr. Coleman:** There were 7,482 replies.

**Mr. O'Keefe:** How many questionnaires were sent out?

**Mr. Coleman:** It does not say, sir. It does give a percentage of replies. The opinions of 30.3 per cent of Canadian doctors are represented in the results.

**Mr. O'Keefe:** So you have 85 per cent of 30 per cent?

**Mr. Coleman:** Of those replying, yes sir.

**Mr. O'Keefe:** Which makes a great difference, would you not say? You gave the impression that 85 per cent of all Canadian doctors are in favour of abortion. At least, that is the impression I got from your answer.

**Mr. Coleman:** No sir, I believe I said 85 per cent of those replying.

**Mr. O'Keefe:** Yes, but you did not say how many replied. Now we understand there was only 30 per cent of those gentlemen who replied.

Mr. Coleman, what do you think is the difference between a foetus and a human being?

**Mr. Coleman:** I believe that the foetus becomes a human being when it is capable of a separate existence.

**Mr. O'Keefe:** And before that it is not a human being?

**Mr. Coleman:** No, sir. It is a living thing but not a human being.

**Mr. O'Keefe:** What is it? What kind of a living thing is it? Is it a dog or a rat or a guinea-pig? If it is not a human being, what is it?

**Mr. Coleman:** It is a part of the mother, sir.

**Mr. O'Keefe:** But is a human being with a separate heartbeat part of the mother? If you have two heartbeats, have you not two people?

I think I will pass, Mr. Chairman.

**Mr. Allmand:** Mr. Chairman, I think it is important that we know whether Mr. Coleman is a Canadian citizen. This is a parliamentary Committee. We want to know the views of Canadians with respect to changing their laws. I would like to know whether Mr. Coleman is a Canadian citizen—not that I would hold it against him. We can call witnesses who are not Canadian citizens but if people are going to come to our Committee who are not Canadian citizens, we should know.

**Mr. Coleman:** All I will answer, sir, is that I have been in Canada since 1950.

**Mr. Allmand:** Oh, I see.

**Mr. Coleman:** I think that qualifies me to say anything in Canada about Canada.

**Mr. Allmand:** You are not a Canadian citizen though?

**Mr. Coleman:** I refuse to answer that question, sir.

**Mr. Allmand:** I will not press it but I do not think you can refuse a parliamentary committee.

**The Chairman:** I think it is relevant, Mr. anyway.

**Mr. Allmand:** I think it is relevant, Mr. Chairman, because, otherwise, if we allow people to come before our parliamentary committees suggesting that our laws be changed we will take their opinions to be those of Canadian people when in fact they are not.

**The Chairman:** Mr. Allmand, the witness is expressing his own opinion. He is not representing Canadian people.

**Mr. Stanbury:** On a point of order. I happen to disagree with the law that gives people who are not Canadian citizens a vote but the fact is that this gentleman has a vote in federal elections; in fact he could be a member of Parliament, since he is a British subject who has been here since 1950.

**Mr. Allmand:** It has not been established that he is a British subject.

**Mr. Stanbury:** To suggest that he does not have the right to come here and give us his opinions if he is not a Canadian citizen, I think is...

**Mr. Allmand:** I am not suggesting that he does not have the right but I think I have the right to know. I am not going to object to his giving his opinion but I would like to know who is coming before the Committee to give us opinions.

**Mr. Stanbury:** It should be noted that he has as much right to vote in a federal election or even be elected to Parliament as any Canadian citizen.

**Mr. Allmand:** It has not been established that he is a British subject even, Mr. Chairman.

**Mr. Stanbury:** I think he did say that he came here from Britain.

**Mr. Coleman:** I am a British subject.

**Mrs. MacInnis (Vancouver-Kingsway):** I would like to speak to the point of order. We had here a short time ago a lady who has lived most of her life in Germany. I am not aware that she was grilled on the exact state of her citizenship. I think this is a most provincial and parochial sort of thing to do. We have issued an invitation to people who are interested in this subject to come and I certainly do not think we should go into their history or their antecedents before they came to this country.

**Mr. Ballard:** Mr. Chairman, speaking also on the point of order, I fully agree with what Mrs. MacInnis, the member for Vancouver-Kingsway, has said. We are not interested in the nationality. This Committee can hear all nationalities and people of all loyalties with complete propriety. However, I do think that Mr. Allmand has a quite valid point in trying to establish the background of the witness. If we allow a similar practice to that which is in existence in the United States, where people coming before a committee stand on the Fifth Amendment, it will draw a curtain between the witness and the Committee. The Committees are not thoroughly able to understand the presentation of the witness if they do not know something about the witness. I would suggest to the witness before us today that when this submission was made by the lady who lived in Germany for most of her life, she freely admitted her background, and this was not held against her. Her complete frankness with this Committee

gave her testimony more credibility. I would suggest that frankness from any witness would lend itself to the credibility of the testimony they are giving and the acceptance of it by this Committee. I would suggest to the witness in all honesty that he make a statement. It does not matter to me whether he says he is a British subject or that he comes from Pago Pago. I do not think this is relevant. I think what is important, though, is that he be perfectly frank with this Committee in his answers to all of the questions that are asked.

● (12:00 noon)

**Mr. O'Keefe:** Mr. Chairman, I believe I introduced a question as to the witness's background, and surely we have the right to know the background of any witness who appears before a committee of the House of Commons of Canada and attempts to influence us to change Canadian laws. I suggest to the witness, if he has nothing to hide and nothing to be ashamed of, that he be frank. Frankness, I think, is a prerequisite.

**The Chairman:** Very well. The witness can say whatever he wishes in answer to these questions. He has said he is a British subject and...

**Mr. Allmand:** Has he said that?

**The Chairman:** Yes, he did.

**Mr. Coleman:** I was born in Bristol, England, in 1924. I was raised and educated in England. I served in the British army during World War II and I came to Canada on June 1, 1950.

**The Chairman:** And you have been resident in Canada since then?

**Mr. Coleman:** I have been a resident since then, yes.

**Mr. Allmand:** I will continue, Mr. Chairman. I will not press it any further. The only difference between this witness and the German lady who was here is that she became a Canadian citizen, I think.

**Mrs. MacInnis (Vancouver-Kingsway):** She did not say so.

**Mr. Allmand:** I thought she said that. In any case, she is showing her intention to live here and I think a person who is a landed immigrant and intends to live in Canada or becomes a Canadian citizen is in a different position than a person who has never really decided if he is going to live here and become a citizen. However, I will proceed

with further questioning on this Bill. I would perhaps like the Steering Committee to give some thought to this matter when people are going to appear before the Committee and they can let us know. Like the previous speaker, I do not care what country the person is from but I would still like to know. I do not think that should fully influence our decision but it has some bearing.

Mr. Coleman, section 1 (a) of the British Bill reads:

that the continuance of the pregnancy would involve risk...

I will skip the part referring to the life of the pregnant woman. It goes on to say:

...would involve risk...of injury to the physical or mental health of the pregnant woman...

You will note that the word "risk" has no qualification such as it has in section 1 (b). In section 1 (b) it says "substantial risk". In section 1 (a) it says:

...injury to the physical or mental health...

and there is no qualification there either such as there is, for example, in section 1 (b), where it says "seriously handicapped". It seems to me that section 1 (a) as it stands, merely be saying "would involve risk", which would mean any risk, and "or of injury", without saying any "serious" injury, means that under that section you could almost have an abortion on demand because it seems to me that whenever a woman is pregnant there is some risk of some injury to the physical health of that woman.

The brief of the doctors of Canada used words like "serious risk of grave injury" but this British Bill merely says "risk of injury". Do you think that it should be a "serious risk of grave injury" or do you think that the British Bill which terms it "risk of injury to the health of the woman" is sufficient?

Mr. Coleman: Sir, when this Bill was in committee I believe they had the word "serious" in front of the word "risk" but the committee decided that this was to be deleted.

Mr. Allmand: This was in the British House?

Mr. Coleman: In the British committee, yes.

Mr. O'Keefe: That would be too favourable to the babies.

Mr. Allmand: I made the statement, and perhaps a doctor would correct me, that you could make a point of the fact that there could be a risk of injury to the physical health of a mother in almost any pregnancy because there could be bleeding or some such thing. It could be said that there is a risk of some injury and I think under that section you could almost allow abortion by demand, especially with the qualification in subsection 1(a)(ii), which is to the effect that you should take into account any actual or reasonably foreseeable environment.

Mr. Coleman: I believe a lot of this depends upon your faith in the medical profession. You can use your imagination and twist—what do they call it, semantics?—words around and make them fit any occasion.

Mr. Allmand: I have had experience as a lawyer and I know how words are interpreted by the courts and I think that is perhaps the reason the British committee took out the word "serious" and "grave" as well. That is the reason they have "seriously handicapped" and "substantial risk" in section 1(b). Those words mean something.

Mr. Stanbury: Mr. Chairman, if Mr. Allmand would permit a supplementary question it might clarify the situation.

Mr. Allmand: Yes.

Mr. Stanbury: Is it not true that the British committee considered that the problem which Mr. Allmand points out is dealt with by adding the words, "greater than if the pregnancy were terminated...", so that a doctor must assess if there would be greater risk to the health of the mother by not performing the abortion than if it were performed. Surely that is the test of seriousness which the British parliamentarians put into their law.

Mr. Allmand: I think Mr. Stanbury has made a point and possibly that clause would balance the other matter I mentioned.

I will move on to another point, although I still think this is a wide-open section despite the words "greater than if the pregnancy were terminated...". In that section, Mr. Coleman, it says, "...or any existing children of her family..." and I wonder if you would give me examples of how the continuation of a pregnancy would affect the physical health of existing children?

Mr. Coleman: Yes, sir. Let us imagine a family of four, two of whom are under medi-

cal treatment. They have to go to clinics and they possibly have to have drugs or at least take treatment, and this family is not particularly rich. As a matter of fact, let us say they are poor and another child will affect that family's chances, as a family which is well looked after, a great deal.

**Mr. Allmand:** In Britain do they not have the National Health Service which takes care of the health of British subjects and residents?

**Mr. Coleman:** There is the National Health Service, yes, sir.

**Mr. Allmand:** But the point you make is that is what it is supposed to mean?

**Mr. Coleman:** This is one of the instances to which it refers. Let us be frank, I do not know of many case histories but these are the types of instances it is supposed to cover.

**Mr. Allmand:** If that is the case do you not think the cure for that sort of problem should be better social welfare measures rather than enlarged abortion laws?

**Mr. Coleman:** It would help. I do not think it would completely cover the situation. There are cases where poor families are simply unable to get out of their conditions.

**Mr. Allmand:** I have one final remark, Mr. Chairman. It was alleged again this morning that people who have abnormalities should be relieved of their suffering and that they should be aborted before they are born, and this is based on the assumption that people who have abnormalities want to die. I was wondering if the Steering Committee had considered calling either doctors or psychiatrists who deal with handicapped children? I would really like to know because we have had opinions on both sides as to the status of abnormal children.

Sometimes people come before the Committee, as the witness did this morning, and state that these children really do not want to live, they are unhappy, they are possible suicide cases, and so on, and other people, such as the witnesses last week, say there is evidence they are very well adjusted and happy children. I am wondering if the Steering Committee would consider calling those people who deal with handicapped children, and possibly adults as well, people who deal with the handicapped, so that we could hear their testimony on this?

• (12:10 p.m.)

**The Chairman:** The Steering Committee will consider it and all its ramifications. There are difficulties, of course. First of all, before we hear further questions, the Clerk of the Committee has pointed out to me that the Bill that was presented and printed as an appendix to Minutes of Proceedings and Evidence No. 1 is not identical with the Bill as passed by the British Parliament. In other words, the committee and Houses of Parliament in England made some changes in the Bill. Therefore, I think it only right that the Bill as passed should also become part of today's record. Is this agreed?

**Some hon. Members:** Agreed.

**Mr. Howe (Wellington-Huron):** Mr. Chairman, is this the final Bill that was passed by the Parliament of the United Kingdom?

**The Chairman:** Yes; I understand it is.

**Mr. Coleman:** It has Royal Assent.

**The Chairman:** It says here that it does not come into force until after a period of six months. The date on it is October 27, 1967.

Mr. Cowan, do you have any questions?

**Mr. Cowan:** Mr. Chairman, I had understood that the witness was a lawyer, and I had a question I wanted to ask; but I presume it would be up to Mr. Allmand or Mr. Stanbury, possibly. I was told the witness was coming in to discuss this Bill. The very first clause starts off

1(1) Subject to the provisions of this section, a person shall not be guilty of an offence...

Is that the normal way of writing law? I reported courts for years. I have read a great deal of law in business. Would not a normal act read that subject to the provisions of this section a person shall be guilty of an offence, and so on, unless he can provide the courts with a statement from two medical practitioners? Is it normal for an act to start off

Subject to the provisions of this section, a person shall not be guilty of an offence...

Is that not an odd writing of the law? I am just asking the two lawyers, since the witness is not a lawyer. They do not have to answer that; but I am interested.

**The Chairman:** Dr. Ollivier was here a few moments ago, but I see he has left.

**Mr. Cowan:** I think he saw the question coming.

**Mr. Allmand:** Was this not a private member's bill, Mr. Chairman?

**The Chairman:** Yes.

**A hon. Member:** It probably has the faults of most private members' bills.

**Mr. Cowan:** This one was passed.

**Mr. Knowles:** But is it not because there is already in the statutes of the United Kingdom a law relating to abortion which does set up offences?

**The Chairman:** That may well be. There is also the fact that probably private members have access to parliamentary counsel, as they do here.

**Mr. Cowan:** Yes; I would think so, too.

**Mr. Stanbury:** I think Mr. Knowles is correct, that it modifies a law that already exists.

**Mr. Knowles:** There is no charge for that opinion, Ralph.

**Mr. Cowan:** I was asking for lawyers' opinions, Reverend sir.

I would like to ask Mr. Coleman: If two doctors should advise a woman who desired an abortion that they could not certify to her requiring an abortion, or as needing an abortion—I mean by that she has been turned down—could she then upset that decision if she popped three thalidomide pills into in her mouth and said, "I have now taken thalidomide", would she be entitled to an abortion immediately because of the grave danger of the child being born deformed?

**Mr. Coleman:** Do you think she could find thalidomide pills...

**Mr. Cowan:** I have not any doubt that many women seeking abortion would be able to bring them in from Germany in sufficient quantities for themselves, and for the people who seek abortions.

**Mr. Coleman:** This is always possible, but then why should she not take strychnine, or anything like that?

**Mr. Cowan:** Well, you mentioned thalidomide in your comments today; that a person who had taken thalidomide should be allowed an abortion because of the grave danger of a child being born deformed.

**Mr. Coleman:** I do not think I used those words, sir. I just said thalidomide had been one of the causes; and also I say that there is a thalidomide type of drug. I understand this is not just one of its kind. I understand there are a number of drugs that can cause this.

**Mr. Cowan:** One other question, sir. How many abortions would you allow a woman in the course of a year—two, three, four? You mentioned up to the twelfth week.

**Mr. Coleman:** That is a very good question, sir. I understand that in Sweden they have regulations to the effect that if this sort of things happens they suggest to the woman that she be sterilized.

**Mr. Cowan:** You would oppose her being granted an abortion on the second or third request within a year?

**Mr. Coleman:** No sir; it depends on the circumstances. You cannot give a blanket answer to that.

**Mr. Cowan:** Mr. Coleman, may I congratulate you on coming from Bristol. That is the port from which John Cabot sailed when he first discovered Canada, 37 years before Cartier ever saw the place. Also it is the area which returned that great democrat and parliamentarian to the House of Commons, Edmund Burke, and you must be a proud man with your background.

**Mr. Stanbury:** Perhaps Mr. Cowan is suggesting that Italian and English should be the official languages.

**Mr. Cowan:** I have already suggested that; after Indian and Eskimo.

**Mr. O'Keefe:** That was Newfoundland; not Canada.

**A hon. Member:** Not Canada?

**Mr. O'Keefe:** Not 450 years ago.

**Mr. Cowan:** We would have been bankrupt by now if Newfoundland had been in Canada then.

**Mrs. MacInnis (Vancouver-Kingsway):** I wish to thank the witness for coming and for giving us such a broad picture of the various aspects of this problem. We have not previously had a witness who even mentioned the subject of sterilization and I would like to ask him a question or two. Does he have any idea of the extent of sterilization in Britain

or in other countries, on whether it is done on a large scale on either men or women?

**Mr. Coleman:** I understand that there is quite a bit of sterilization done in New York City. Unfortunately I did not bring the American *Hansard* with me today, otherwise I could have given you figures on it.

**Mrs. MacInnis (Vancouver-Kingsway):** Would that be on men, on women, or both?

**Mr. Coleman:** I do not recall that they split them up. I just said "Sterilizations". But the total number of sterilizations in 1957 in Sweden was 1,785 and women had 1,731 of them.

**Mrs. MacInnis (Vancouver-Kingsway):** Is there any relationship between that and the rate of abortion? Has it made any difference in the rate of abortions, legal or otherwise? You suggested that in your mind it was part of the package. I am just wondering how it affects abortions.

**Mr. Coleman:** I would suggest, madam, that sterilizations in that case would eliminate abortions on people who do not want any more children, who are inclined to produce mentally retarded, or, in particular, mongoloid children, and also if the particular person were slightly unbalanced, shall we say, or on the borderline, it would prevent a possible complete mental breakdown.

**Mrs. MacInnis (Vancouver-Kingsway):** I have just one or two questions about the British Bill. Were you in Britain at any time when it was being discussed?

**Mr. Coleman:** No, madam.

**Mrs. MacInnis (Vancouver-Kingsway):** Have you followed the discussions?

**Mr. Coleman:** I have, yes.

**Mrs. MacInnis:** I understand that rape and incest would be included here under the first clause.

**Mr. Coleman:** I was hoping you would ask that.

**Mrs. MacInnis (Vancouver-Kingsway):** Do you know whether they faced, the difficulty of proving rape or incest? What did they do about that?

**Mr. Coleman:** When the Bill was proposed there was an effective clause about rape and incest, but they came to the conclusion that if they left it in they would be asking the

medical profession to do something that courts of law cannot do, which is to decide if there is a rape; that it would be putting an unbearable strain on the medical profession to decide this.

• (12:20 p.m.)

**Mrs. MacInnis (Vancouver-Kingsway):** In other words, they came to the conclusion that it was not possible to prove rape or incest.

**Mr. Coleman:** Exactly, yes. If you have someone who says they have been raped, how can you prove it unless, that person, shall we say, is examined within 48 hours? I am not sure of these times; I am saying 48 hours. What is there to prove that she has been raped except for the fact that she might be pregnant. They felt they should not ask the medical profession to decide this question so they kept the first paragraph quite wide in order to allow cases to be considered under this paragraph.

**Mrs. MacInnis (Vancouver-Kingsway):** There is one clause in here that seems to indicate that abortions have to be performed in registered hospitals, with a panel deciding, and then there seems to be another place where it says two doctors may decide.

**Mr. Coleman:** No, I do not think it mentions a panel at all.

**Mrs. MacInnis (Vancouver-Kingsway):** Then they do not have panels in British hospitals?

**Mr. Coleman:** They might but I do not think they have them on abortions.

**Mrs. MacInnis (Vancouver-Kingsway):** Oh, I see.

**Mr. Coleman:** At least they do not suggest they have them on abortions.

**Mrs. MacInnis (Vancouver-Kingsway):** I am not going to ask about your background but I understand, you have some kind of organization in London.

**Mr. Coleman:** There is a Canadian Abortion Law Reform Association.

**Mrs. MacInnis (Vancouver-Kingsway):** Is it a branch of this national organization?

**Mr. Coleman:** No. It was formed independently in London. I believe it is practically 100 per cent women.

**Mr. Rock:** Mr. Coleman, have you any personal reasons for your interest in abortion laws?

**Mr. Coleman:** Shall I say, as I believe I said to the gentlemen here before, that when I began to be interested in it, no, there was no personal interest whatsoever. But if you can call it a personal interest now, my son is both mentally and physically deformed. He is six years of age, 23 pounds, cannot talk, and this is my only, shall we say, personal interest.

**Mr. O'Keefe:** Could I ask a supplementary question Mr. Chairman?

**Mr. Rock:** I just wanted to ask one more question, and maybe I will be ruled out of order. To follow up this question of citizenship, would you become a Canadian citizen if our government were to pass liberal laws regarding abortion?

**Mr. Coleman:** Actually, I did not say I was not a Canadian citizen, sir.

**The Chairman:** The question is not relevant. Mr. O'Keefe, would you put your question.

**Mr. O'Keefe:** Mr. Coleman, would you mind telling us how many brothers and sisters you had and how many children you have?

**Mr. Coleman:** I have one brother and one sister. As one of my sisters died when I was two that leaves a brother and a sister. Now I have a little boy which I have just mentioned.

**Mr. O'Keefe:** Just the one?

**Mr. Coleman:** Yes.

**The Chairman:** Are there any other questions of the witness?

**Mr. Isabelle:** Do you think this is one of the best bills on abortion that you have ever seen?

**Mr. Coleman:** Are you talking to me, sir?

**Mr. Isabelle:** Yes.

**Mr. Coleman:** I think it compares favourably with all of them. I am not one for abortion on demand, sir, so I cannot compare it with the Japanese or Hungarian laws; but compared with the ones I have seen, I think it compares favourably.

**Mrs. Rideout:** Mr. Chairman, could I ask a question?

**The Chairman:** Mrs. Rideout.

**Mrs. Rideout:** Mr. Coleman, you state that you have one child six years old who is mentally and physically deformed. Is this one of the reasons you became very interested in our laws concerning abortion.

**Mr. Coleman:** No.

**The Chairman:** He said he had the interest before that time.

**Mrs. Rideout:** You had an interest before that time?

**Mr. Coleman:** Yes.

**Mrs. Rideout:** Possibly my next question is not in order. I have a great concern as to how we decide whether or not children who are conceived are deformed. I asked this question of medical doctors who appeared and I think, if I recall correctly, Mr. Chairman, that they said there is a 50 per cent chance that they can tell correctly whether or not a child will be deformed.

**The Chairman:** I think they were referring to german measles only and in that particular case they felt there would be a 50 per cent chance that the child would be deformed and a 50 per cent chance that it would not be deformed.

**Mrs. Rideout:** This is what I mean. How would you feel, Mr. Coleman; would you want to take the chance, again, of deciding whether or not your child should be born?

**Mr. Coleman:** Shall we just ignore me at the moment? Last year, for the first time, I asked my wife if she was bearing my son again what would have been her decision if she had been told, and she said she would have had the foetus aborted.

**Mrs. Rideout:** She would have?

**Mr. Coleman:** Yes.

**Mr. Stanbury:** I gather, then, she did not know.

**Mr. Coleman:** No, sir.

**The Chairman:** Are there any other questions of the witness?

**Mr. O'Keefe:** Have you no hope, Mr. Coleman, that your boy can be cured?

**Mr. Coleman:** No. He also has brain damage which is irreparable.

**Mr. O'Keefe:** I know of a case of a boy whose brain was damaged and considered irreparable but he is cured at 13.

**Mr. Coleman:** I cannot argue with you on that point, sir, but I think it is about the only case I have ever heard of.

**Mr. O'Keefe:** Thank you, sir.

**The Chairman:** Are there any other questions?

**Mr. Stanbury:** I do not have a question, Mr. Chairman, but I would like to express my admiration for the witness. I think he has come here with a more complete knowledge

of the subject that he is dealing with than a lot of the semi-professional and professional witnesses we have had. I am most moved by his sincerity in what he has had to tell us.

**The Chairman:** On behalf of the Committee, I would like to thank Mr. Coleman from London, Ontario, for being our witness today.

The meeting is adjourned until Thursday, when we will have brief from The Catholic Physicians Guild of Manitoba, and Dr. Tallon from Cornwall.

## APPENDIX "J"

### ABORTION

A brief from the Unitarian Church of Vancouver

This brief was researched and prepared by some members of the Social Action Committee of the Unitarian Church of Vancouver.

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## ABORTION

"As far back as human records can be traced there is evidence of the desire of the race to maintain some control over the number of offspring."<sup>1</sup>

Induced abortion has been practiced to some extent in all societies, both primitive and modern. It is a subject fraught with taboos, weighted with misinformation, and, in our own culture, too often hushed up. But a problem does not disappear simply because we refuse to examine it.

\* \* \* \* \*

Our concern as a committee grew out of our work two years ago in drawing up a brief on foster care in British Columbia and on the problems of unwanted children.

Illegal abortion is a widespread problem in our society. As the material contained herein will indicate, the present laws on abortion are neither working, nor, we believe, workable. They date from an age when the sciences of medicine and psychology were in their infancy, and have not kept pace with changing knowledge and conditions.

Law we believe is made for man. While it must take cognizance of the public good, private morality should not and cannot be legislated. Society's chief concern today must be with the quality of future generations, rather than with the need for sheer increase in numbers.

Parenthood is and will remain one of mankind's greatest satisfactions. We believe that mature men and women are capable of deciding on the number of children they want and when they want to have them. Ideally, the immature and irresponsible should not become parents.

Abortion is by no means a desirable method of birth control. We believe, however, that it is often the lesser of two evils. Thousands of children today, in Canada as elsewhere, were not wanted at the outset and are not receiving the security, love and enlightened guidance, as well as the basic minimum physical standards of care, which are essential to the development of a healthy personality. The cost to society, in terms of delinquency, crime, and illness both physical and mental, is incalculable; nor can individual suffering be measured.

We would anticipate that as the methods of family planning become more efficient and

further efforts are made to strengthen responsible family life, the need for abortion will decrease. It will not, however, be eliminated by law while human frailty remains.

We therefore wish to make the following recommendations:

## RECOMMENDATIONS

1. Abortion should be a remedy available to every woman who chooses to exercise it. In the case of a married couple, consent of the husband should be obtained except in exceptional circumstances. The parents or guardian of an unmarried girl under the age of eighteen should be required to give consent.

2. The operation should be performed by a licensed physician in an accredited hospital, with adequate medical safeguards.

3. Sterilization should be available in all cases with eugenic indications, and also available to any mature man or woman who requests it after adequate counselling.

4. Counselling services, somewhat along the lines of the Mothers' Aid Centres in Denmark<sup>2</sup>, should be available, to explore the nature of the problem and whether or not substitute measures could provide an alternative answer. Services available when necessary should include those of law, medicine, social work, clergy and government officials representing departments concerned with employment, training and housing. No compulsion should be put upon a woman to avail herself of alternative solutions.

5. A thoroughgoing program of education in Family Living and Sex Education should immediately be established in all schools to promote the knowledge and understanding upon which responsible sexual conduct must be based.

6. Family planning services should be freely available to all. Contraceptive clinics or services should be established in all public health departments.

7. Training in related professional courses should be expanded to provide much wider instruction in the areas of family planning and abortion techniques.

8. Research should be established immediately to explore and develop more efficient and safe methods of abortion.

<sup>2</sup> See section on *Abortion Systems in Other Countries*.

<sup>1</sup> Dr. Taussig quoted in *Therapeutic Abortion*.

### THE HISTORICAL PICTURE

Abortion is as ancient as history. Formulas for abortion have been found in the sacred writings of the early Egyptians and other peoples, and the earliest known recipe dates back more than 4,600 years. The practice was common in the pre-Christian era; both Plato and Aristotle approved of abortion as a means of limiting numbers, and it was accepted also for medical, social and economic reasons.

For the most part, the total prohibition against abortion in the western world owes its origin to the early Christian church. For many centuries argument resounded over the doctrine and the time of "quickening"—the point at which theologians believed the soul entered the body of the foetus, and life was said to have commenced. Opinions and theories varied as to when this took place, but between the fourteenth and sixteenth centuries it came to be generally held that this point was at the fortieth day after conception for the male foetus and the eightieth day for the female, an opinion also current among the early Greeks and Romans.

Although there was, during the later Roman period, a move towards repressing abortion, it was not because of concern for the unborn child, but on the grounds that to deprive a husband of his property rights in a son was a serious offence, constituting theft.

It was not until 1803 that British law made abortion a criminal offence without regard to the time of gestation. Previously no legal penalties had been attached if performed before the time of quickening.

### THE LEGAL BACKGROUND

Present Canadian, American and British legislation rests upon a section of the British Act of 1861, "Offences Against the Person." This laid down that abortion, whenever and by whomever induced, is a felony punishable by penalties up to and including life imprisonment. The Act contains the one essential word "unlawfully" induced, upon which the distinction presently made between illegal and legal therapeutic abortion now rests. While the 1861 Act made no direct provision for therapeutic abortion (and indeed the limited development of medicine at that time made all surgical procedures highly risky and would hardly have justified use of the term "therapeutic"), the word "unlawfully" was interpreted by later jurists as implying

that in some situations abortion must therefore be lawful.

This was further clarified in England by the 1929 Statute on child destruction which stated that "no person should be found guilty [and subject to the penalties for committing illegal abortion] unless it was proved that the act was not done in good faith for the purpose of preserving the life of the mother."

The situation in Britain has been further clarified by a celebrated judicial decision in the 1938 case *Rex vs. Bourne*. Dr. Aleck Bourne, a leading gynaecologist and obstetrician, announced to the police authorities that he had scheduled an abortion; to be performed on grounds other than that the life of the mother was in danger. He considered this to be a test case, one that could provide clarification of the law. The facts of the case were dramatic: a fourteen-year-old girl had been raped by several soldiers and had become pregnant. It was felt that irreparable emotional damage could be caused by forcing her to bear the child. Dr. Bourne consented to perform the operation, openly rebellious against a law which seemed to him inhuman and illogical. He was charged, tried and acquitted, in a judgment which interpreted "preserving life of the mother" in an extended sense to include preserving longevity of the mother, where continuation of the pregnancy would be likely to cause her to become a "physical or mental wreck".

### THE LEGAL SITUATION IN CANADA

In Canada no such legal clarification exists. Abortion is dealt with in two sections of our Canadian Criminal Code. Section 209 makes it a crime, punishable by life imprisonment, to kill an unborn child except to save the mother's life (which may sometimes be interpreted as saving the mother from becoming a physical or mental wreck). Section 237 of the Criminal Code, however, states flatly (with no exceptions) that it is a crime to cause an abortion, to procure an abortion or to provide the means of aborting, and sets out penalties up to, and including, life imprisonment. (See Appendix II on Canadian Criminal Code Sections.)

The word "unlawfully" does not appear, as in the British law, and there have been no Canadian test cases on the point, such as the British *Rex vs. Bourne*.

These two sections appear to be mutually contradictory, and the legal profession is

itself divided as to the legality of therapeutic abortion in Canada.

It is estimated that somewhere between five hundred and one thousand therapeutic abortions are performed in Canadian hospitals every year<sup>3</sup>. Each hospital Board or Committee interprets policy for itself, and must rule on every application from a physician. Roman Catholic hospitals, of course, never permit therapeutic abortion even to save the mother's life.

Hospitals are reluctant to release information on this subject, and statistics have not been available from the Department of National Health and Welfare.

In Vancouver a leading medical authority estimates that approximately fifteen therapeutic abortions are performed each year. Grounds for these include serious disease of the heart, liver or kidneys, some lung conditions, and psychiatric indications where a grave risk of suicide is judged to exist.

Because of the confused legal situation in Canada, both doctors and hospitals undertake such procedures with great reluctance and many not at all. Most would welcome clarification and widening of the law.

#### ILLEGAL ABORTION IN CANADA

"Abortion has been a dilemma, a scandal, a racket and a tragedy for so long that it creates in most people a stultifying sense of ill-omen and despair that inhibits action, not encourages it. Every day the phones ring, the curtains are drawn, the lies are told, the money changes hands, the women breathe again. One day it may look barbaric, but for the moment it's our natural condition."<sup>4</sup>

It is usually estimated that at least 100,000 illegal abortions take place each year in Canada. For 1965 the number of live births was approximately 419,000, an indication that more than one out of five pregnancies ends in abortion. Although some are officially classed as spontaneous abortions, many of these are believed to be illegally induced.

In Metropolitan Toronto, some sources indicate that 35,000 illegal abortions take place annually. Several years ago the B.C. Medical Association's Maternal Welfare Committee gave an estimate of 4,000 illegal abortions in British Columbia, but in Vancouver

alone estimates now run between 5,000 to 10,000 each year. Of the 4,000 in British Columbia at that time, 1,000 of the women became sufficiently ill to require hospitalization, thirty-one were critically ill and three died. Many are left sterile as a result of infection, others in chronically impaired health.

A 1963 survey as reported by the Vancouver *Sun* newspaper estimated that ten women in Vancouver die each year as a result of illegal abortion. Last year in Vancouver six criminal charges were laid.

Enforcement of the law is virtually impossible. It is doubtful that any other felonious act is as free from punishment as criminal abortion. Women whose abortions are successful are not likely to complain to the police, nor are the abortionists easy to prosecute, for evidence is hard to get. Doctors are understandably reluctant to involve their patients in scandal. In Vancouver, prosecutions are usually obtained through the evidence of policewomen who pose as being pregnant.

Who are these women who seek criminal abortion? There appears to be general agreement between doctors, writers and legal authorities that the largest majority are married women between the ages of twenty-five and forty, with two or three children already, and pregnant again by their husbands. Estimates published in the United States and Britain indicate that from 60% to 90% of the women are in this category, and we have no reason to believe the situation is different in Canada, though no studies have been published here. Whether married or unmarried, most are normally law-abiding citizens, but desperate enough to risk their lives or health in flouting a law which seems unjust and illegal.

Many of these abortions are self-induced by a variety of old-fashioned remedies which, if powerful enough to abort a foetus, invariably cause extensive damage to the woman. Perhaps the greatest number are performed by persons with little or no medical training, using crude and often unsterilized instruments, and charging according to their previous experience and whatever the traffic will bear. Fees may run between \$100 and \$1,000. Some are undoubtedly performed by reputable physicians, either as a profitable sideline, or with deep conviction that the law is wrong and in compassion for a woman in extreme circumstances.

<sup>3</sup> C.M.A.

<sup>4</sup> The Nameless, by Paul Ferris.

In the words of one doctor, "There is a sense of tragedy here, of deep confusion. I was trained as a doctor to help people, to relieve them of their miseries. I am frightened that a woman will walk out and do something desperate. Here is a situation which I could prevent, a place where I could certainly be of help. But I am forced to withdraw, to allow a woman to go through an experience which will be very disturbing, which might kill her. And there is absolutely nothing I can do."<sup>5</sup>

### THE SITUATION IN THE UNITED STATES AND BRITAIN

In the United States there is no uniform federal penal code. Each of the fifty states, with the exception of Louisiana, permits abortion to save a mother's life. Several states including Alabama, Colorado, New Mexico, New Jersey and the District of Columbia have clauses to provide for risk of serious and permanent bodily injury to the mother, or preservation of "life or health". The stated grounds for abortion do not include the victims of rape, incest or those likely to give birth to deformed or defective children. The states of California, Colorado, Michigan and New York are now considering new legislation including such grounds. The Model Penal Code, as proposed by the American Bar Society, also includes "other felonious intercourse", i.e. with a girl below the age of sixteen.

It has been estimated that approximately 10,000 therapeutic abortions occur each year in the United States, all more or less legal, according to interpretation of the laws. Yet upwards of one million illegal abortions are believed to take place, and there are 5,000 annual deaths. Illegal abortion has been called the "third largest criminal racket" in the United States. In 1963 a United Nations child study group stated that nearly half the maternal deaths in the large cities were due to illegal abortion.

In Britain 2,000 or 3,000 therapeutic abortions are performed free each year under the National Health Service. It is estimated that in addition at least 10,000 annually are performed by private physicians under the general heading of therapeutic, with between 100,000 and 200,000 criminal abortions. Maternal deaths from induced illegal abortion run upwards of fifty per year, with one estimate going as high as 200 or 300 per year. It

is reported that the stated official cause of death is frequently misleading, in an attempt to cover up the true situation.

It seems to be true in Canada, as in the United States and Britain, that the current laws on abortion lead to class privilege. The woman with money and good connections can usually obtain the services of a skilled professional man, can shop around until she finds one willing to interpret the law in her favour, or work outside of it. One study in the United States indicates that almost every metropolitan area with a population of 100,000 or more has at least one competent experienced full-time professional abortionist. A well-known Maryland physician performed over 5,200 illegal abortions in a twenty year period, and during this time none of his patients died or had any serious injury that required hospitalization.

Hospital records indicate that the ratio of therapeutic abortion to live births is five times greater in the private hospitals than in the lower-income municipal hospitals.

Legislation is now before the British House of Commons to liberalize the law on abortion. The Medical Termination of Pregnancy Bill has passed second reading, and is now being considered in committee with proposed amendments, before going into third reading.

In its present form it would enable a doctor, in consultation with another, to terminate a pregnancy on four main grounds:

1. Serious risk to life or grave injury to the physical or mental health and well-being of the mother, either before, at or after the birth.
2. Substantial risk of serious abnormality in the child.
3. If the woman's capacity as a mother is likely to be severely overstrained by care of the child.
4. If the woman is a defective, or became pregnant under the age of sixteen or as a result of rape.

There has been a good deal of medical opposition to the bill, centred largely around the last two grounds, which doctors feel involves a social, not purely medical, decision.

A national poll conducted in Britain in 1966 by the Abortion Law Reform Association, showed 75% of women favouring some relaxation in the present law. The figure rose to 91% in favour of permitted abortion where the baby was likely to be born deformed.

<sup>5</sup> Abortion and the Law, by Paul Ferris.

## ABORTION SYSTEMS IN OTHER COUNTRIES

## FRANCE

Abortion is illegal in France, and although a predominantly Roman Catholic country, it is estimated that the annual number of abortions almost equals the number of live births. This situation appears to derive from a 1920 law which makes artificial contraception illegal. The law was originally enacted to offset the great loss of men suffered by the French in the first World War.

Estimates of maternal deaths from post-abortion complications vary from 10,000 to 60,000 a year.

## SWEDEN

Swedish legislation on abortion represents a middle way between the rigidity of Canadian law and the permissiveness of Eastern European countries and Japan. Sweden was the first of the Scandinavian countries to liberalize the law, following recommendations of a Commission on Abortion which had discovered that 10% to 20% of pregnancies were being illegally aborted.

The 1938 law allowed abortion on grounds of:

1. medical indications.
2. humanitarian (cases of rape or incest or risk of a defective child).
3. eugenic (risk of the transmission of serious hereditary disease). This is usually accompanied by sterilization.

Included in 1946 was a combined medical-social category known as "the worn-out mothers syndrome".

Requests for abortion are referred to Boards consisting of doctors, social workers and psychiatrists if indicated. The operation must be performed by the twentieth week of pregnancy (abortions after the twelfth week usually are by abdominal surgery, a much more serious operation), but some writers suggest that delays sometimes occur.

The legislation was supplemented by Family Planning or contraceptive clinics, state help for parenthood by way of tax-reliefs, subsidized housing, free school lunches and maternal welfare centres.

It is reported that 3,000 legal abortions were authorized in 1965. A peak of 6,351 was reached in 1951, and the number has been largely declining since. In 1960, 2,417 abortions were performed, 41% for medical rea-

sons and 51% for medical-social reasons. Humanitarian and eugenic cases are always a small proportion of the number.

Requests by unmarried women are rarely granted unless there are other qualifying grounds. In one sampling study of 479 women with legal abortion for psychiatric indications, 27% were single, 12% widowed, separated or divorced, and 61% married.

Illegal abortions are believed to be about 5,000 to 10,000 a year in Sweden. It is known however that many women make the brief journey to Poland, where abortion laws are more permissive. The New York Times reports that 12,000 Swedish women were aborted in Poland in 1964. It is also reported that doctors in Sweden are now campaigning to have abortion granted to all women on request up until the twelfth week of pregnancy.

The population of Sweden is approximately 7½ million.

## DENMARK

Legislation permitting limited therapeutic abortion came into force in 1939. Decisions on applications are made by a Council, of which there are twenty-one in Denmark, consisting of a gynecologist and obstetrician, psychiatrist and an employee, usually either a lawyer or a social worker, of the local Mothers' Aid Centre, to whom all applicants must first apply.

The Mothers' Aid Centres, also set up in 1939 and financed by the state, provide not only counselling, but residences and nurseries where mother and child may remain for two or three years if necessary, while the mother upgrades her education or training. Legal and medical services are provided if necessary, and help is extended to all mothers, whether married or unmarried. In regard to abortion, the function of the Mothers' Aid Centre is to determine whether assistance of other kinds may render the abortion unnecessary. Follow-up service is provided, whether the abortion is granted or not.

There are four main indications for interruption of pregnancy:

1. To avert serious danger to woman's life or health, taking into consideration both present and imminent future weakness. (In cases of urgent medical necessity the senior physician at a hospital may perform an abortion without first referring the case to the Mothers' Aid Centre or Council.)

2. Ethical indications—pregnancy as a result of rape, incest or sexual intercourse with a child under fifteen.

3. Eugenic indications—obvious danger that child, on account of hereditary predispositions or embryonic injury, will be affected with insanity, mental deficiency or incurable abnormality.

4. Defect indication—where serious physical or mental defects or other medically ascertained conditions justify the assumption that the woman is incapable of looking after her child.

It is estimated that approximately one half of the applications for abortion are granted. The number of legal abortions in Denmark is approximately 4,000 per year, of which 85% were decided upon by the joint Councils and 15% were performed by the senior hospital physician. Applicants for abortion must have permanent residence in Denmark.

The population of Denmark is approximately  $4\frac{1}{2}$  million.

#### JAPAN

The Eugenics Protection Law, passed in 1948, allows abortion for economic, medical, eugenic and personal ("do not desire children") grounds. It was introduced as a method of curbing severe overpopulation in a country where contraception was relatively unknown. Infanticide had been a widespread practice in earlier years. The present extremely high abortion rate (at least one abortion for every live birth) has now led to a campaign for the introduction of other methods of family planning.

Approximately 20,000 of Japan's 90,000 or more doctors are specially licensed to perform abortions, and no official permission is needed. The birth rate has been halved since 1947, and it is estimated that  $1\frac{1}{2}$  million abortions are now performed each year. The cost for a Japanese woman varies between \$5.00 and \$10.00, cheaper, it may be noted, than a year's supply of contraceptives. The cost for a foreign visitor is about \$150.00, and it is estimated that upwards of 1,000 American and Canadian women have abortions each year in Japan.

Some studies have indicated that 50% of Japanese women are pregnant again within the eighteen months following abortion, and 20% within six months; figures which are reassuring in regard to anxiety about possible sterility, but urgently point up the need for other methods of family limitation.

#### CZECHOSLOVAKIA

A law adopted in 1957 permits abortion on grounds of serious risk to life or health of the mother, risk of a defective child, and in pregnancies caused by violence or crime. Additional grounds include economic and housing difficulties, the existence of several children in the family, disrupted marriage, advanced age of the woman, and "the difficult position of an unmarried mother". Evidently a small number of applications in the latter category are rejected on grounds that not all unmarried mothers are in a difficult position. Unmarried girls under eighteen require parental consent to an abortion.

Abortion must be carried out during the first three months of pregnancy, unless serious health reasons after this date make surgery essential. All applicants must apply to the local Board, consisting of doctors and a government official with easy access to departments dealing with housing allocation and employment, and are encouraged to consider other possible solutions to the problem if possible.

Previous to the introduction of this law, the rate of illicit abortion in the early 1950's was believed to be between 100,000 and 300,000 a year, with a high annual rate of resulting complications and death. In 1960 the legal abortion rate was 162,000, or 41 abortions per 100 live births. In 1963 the rate was down to 30 per cent live births and in 1964 to 29. This decrease is believed to be due to a more stringent interpretation of the regulations permitting abortion, and to a vigorous campaign encouraging other measures of birth control. The largest number of abortions are performed on women with two or more children.

As in Japan, cost of the operation is extremely low, and statistics indicate a high incidence of repeated abortions per woman. In 1960, only 52 per cent of the aborted women had employed contraceptive measures, and these measures were of a primitive type.

The population of Czechoslovakia is approximately 14 million.

#### THE SOVIET UNION

Two sharp reversals of policy have drawn wide attention. Free legal abortion was inaugurated in 1920 as part of the general program to emancipate women, and to reduce the high illegal abortion rate associated with a high incidence of illness and death. In 1936 the government shifted its policy, and abor-

tion was then permitted only for strict medical requirements. Some observers have felt that the desire of the government to increase population for political and economic reasons may have been the underlying cause of this reversal. In 1955 a broad program of permissive legalized abortion was again adopted. No statistics are available on the number of abortions performed, but it is reported that permission is freely granted at a hospital to any Russian woman who applies; the cost is extremely low, or free to a working woman.

As in the Scandinavian countries, a broad program of maternity aids has also been instituted, including maternity leave from employment and state nurseries to assist in the care of children. Education in birth control methods through public clinics has also been widely instituted.

#### OTHER COUNTRIES

Norway, Finland and Iceland (the latter in 1935 was the first of the European countries other than the U.S.S.R. to introduce such legislation) all permit limited therapeutic abortion under provisions very similar to the Swedish and Danish systems, on medical, eugenic and humanitarian grounds. There is also limited provision in Switzerland.

The Eastern European countries, Poland, Hungary, Bulgaria and Rumania all introduced permissive legislation, between 1955 and 1957, similar to that of Czechoslovakia, and in 1960 Yugoslavia too adopted similar measures.

It is interesting to note that in Germany under the Hitler regime, alone of the western nations, the penalty against abortion was extended in 1943 to include capital punishment, if the guilty person "had continually impaired the vitality of the German people by such deeds". Limited therapeutic abortion however was permitted to preserve the life of health of the mother or for eugenic indication.

#### REASONS FOR ABORTION

Although the reasons for abortion are numerous and varied, they fall into five main categories:

1. medical
2. psychiatric
3. socio-economic
4. eugenic
5. ethical or humanitarian

Twenty-five years ago, the three commonest indications for therapeutic abortion were serious diseases of the heart, lungs, or kidneys, but purely medical grounds have been decreasing steadily with the rapid advances made in medicine. The medical indications which are regarded as valid grounds for abortion vary from one hospital to another and probably no two authorities would be in complete agreement. However, Dr. Alan F. Guttmacher, President of the Planned Parenthood Association in the United States, lists the following indications as those which, in his opinion, warrant abortion on medical grounds:

1. hypertensive-renal disease
  - a) condition aggravated by pregnancy
  - b) many patients have unexplained death in utero during middle or later period of gestation
  - c) others develop abruption of placenta in last trimester
2. severe cardiac disease—if patient cannot avail herself of proper care or is resistant to undertaking the risk which pregnancy implies
3. certain non-tuberculous conditions such as previous pneumonectomy, extensive bronchiectasis or severe emphysema, in which vital lung capacity is dangerously reduced.
4. malignancy—cancer recent or co-existent with pregnancy in organ sensitive to stimulating effects of chemicals of pregnancy (mainly breast and thyroid).
5. juvenile diabetic of long standing who shows marked vascular pathology with ocular and renal involvement may be considered for abortion.
6. patient with one kidney—if it is impaired.<sup>6</sup>

The removal of a foetus in the ovary, abdominal cavity, or Fallopian tube would also be listed under medical reasons.

In recent years therapeutic abortion performed on psychiatric grounds has been one of the largest categories. A grave risk of suicide must be judged to exist if the pregnancy were to continue.

Many doctors believe that the laws governing abortion are decades behind modern medical thought. Surely, the preservation of the woman's emotional health is an important as her mere physical survival.

<sup>6</sup> Therapeutic Abortion.

W.G. Eliasberg, M.D., Ph.D., would recommend abortion for severely disturbed patients who are not amenable to psychiatric treatment at the time. This decision is upheld by Dr. May E. Romm, who feels that, with certain schizophrenic or manic-depressive patients, abortion is a humane measure, both for the women and for their unborn children.

Dr. Romm also believes that a girl in early adolescence is not mature enough for the emotional experience of pregnancy and childbirth, and that the traumatic experience of abortion would prove to be less hazardous to her well-being than would the vicissitudes of pregnancy, birth and maternity.

Other patients considered for abortion would be those whose previous pregnancies had repeatedly brought on postpartum psychoses, and women who had been lobotomized (because of the high relapse rate).

Unfortunately, many mentally defective women are sexually irresponsible, and contraception is useless for those who are unable or unwilling to practise it. In these cases, abortion accompanied by sterilization would be a socially desirable operation, and preferable to the breeding of defectives.

In this period of population explosion, we should no longer be concerned with sheer increase in numbers, but should consider the quality of the offspring. If it can be reasonably assumed that the mother or father of an expected child will transmit insanity, mental deficiency, or serious physical disease, we believe that abortion should be a remedy available to those parents for eugenic reasons. Such hereditary diseases as cystic fibrosis, muscular dystrophy, hemophilia and some forms of mental retardation, carry a high risk that children of affected persons will be born similarly affected. In Huntington's Chorea there is believed to be a 50% chance that offspring will also develop the disease. If the expectant mother has had German measles (rubella) during the first twelve weeks of pregnancy, many physicians would recommend abortion for the following reasons:

1. 17% of the offspring would have congenital malformation

- a) blindness
- b) incapacitating heart lesion
- c) intelligence of an imbecile
- d) combination of two or three of these defects

2. Over 30% would suffer from unilateral or bilateral deafness.

If the mother has the infection during the first month of pregnancy, it is estimated by Dr. A. J. Schaffer of Johns Hopkins Hospital that the risk of a deformed child is 40%, declining to 10% in the third month of pregnancy. The rubella epidemic of 1963 in the United States was estimated to have left more than 30,000 American babies stillborn or crippled.

The thalidomide tragedy of 1961-1962 left some 10,000 European babies deformed or crippled. In Canada 130 babies were born with this condition, of which 100 were surviving in 1964 and 74 in 1966.

At the Annual Meeting of the Canadian Medical Association held in Edmonton in June 1966, a recommendation was approved that abortion be made legal when necessary to preserve the life or physical or mental health of the mother.

The operation would have to be performed by a qualified and licensed medical doctor and with the approval of a hospital-appointed abortion committee in a public active-treatment hospital approved by a qualified accrediting board. The doctor would have to have the written consent of the mother's husband, parents or guardian.

The C.M.A. is also in favour of clarifying the legal position in regard to sterilization, which is not mentioned in the Canadian Criminal Code, but is nevertheless often interpreted as being illegal.

The Canadian Bar Association, at their Annual Meeting in Winnipeg in August 1966, passed a resolution on abortion which has been submitted to the Minister of Justice.

It approves of termination of pregnancy where the life or health of the mother is endangered, where the pregnancy has resulted from a criminal act, and where there is a substantial risk that the child will be born with a grave mental or physical disability.

It proposes that Termination Boards be set up in each province to rule on cases resulting from rape or related sexual offence. Boards shall consist of two doctors, two lawyers, and two social workers. The operation must be performed by a duly licensed medical practitioner in an accredited hospital after approval by a therapeutic abortion committee of such hospital. Applications on medical grounds would not need to be referred to the Termination Board.

### THE PSYCHOLOGICAL AND PHYSICAL AFTER-EFFECTS OF INDUCED ABORTION

A good source of opinion and surveys is found in the book *Pregnancy, Birth & Abortion* put out by the Institute for Sex Research at Indiana University. They report on their own sample of some 7,000 women, among whom they recorded 1,609 pregnancies for the white females, 531 of which ended in illegal abortion and 51 of which ended in therapeutic termination. They report less than 10% showed or admitted psychological ill effects after the abortion although a few of these showed severe reactions.

An extensive Swedish study done by psychiatrist Martin Ekblad in 1955 as a follow-up to therapeutic abortion showed an incidence of 14% of women experiencing mild self-reproach and 11% with severe self-reproach, though the depression even in the latter cases from a psychiatric viewpoint was designated as mild. In 1% of the cases later working capacity was impaired, but these women had manifested severe neurotic symptoms even before the operation.

Other statistics range from 2% of terminated cases in a Norwegian survey reporting dissatisfaction or regret, to a high of 50% in one Swedish survey. It is to be expected however that the composition of the groups studied would greatly influence the statistical picture.

Psychiatric comments on the possible trauma of induced abortion also vary widely. In 1945 Helene Deutsch stated that "Interruption of unwanted pregnancy must constitute a trauma regardless of reality."<sup>7</sup> She notes however that a motherly woman who finds sufficient gratification in her previously borne children reacts rationally, provided she is not neurotic. As in the Eastern European countries, most studies conclude that psychological disturbances after abortion have not been any more common than after childbirth.

The Indiana study noted that women married at the time of the abortion showed less emotional stress (4.1% of these women reported psychological trauma) than those who were single (13.6% reported emotional stress).

Regarding physical effects, 82% of the married women and 68% of the single reported no unfavourable consequences; 7% of the

married reported mild or moderate physical effects, and 12% of the single.

The study also concluded that the traumatic effect of induced abortion was not great enough to deter more than 10% of the cases from further pre-marital coitus. They noted that as measured by orgasmic capacity, induced abortion does not adversely affect future marital sex response, nor is it a determinant in the stability of a future marriage. They conclude that the great majority of the women who had illegal abortions stated that it had been the best solution to their immediate problem.

Regarding maternal mortality, the study indicates that of 86 deaths of pregnant women, 54% were in early pregnancy and, of these, 61% were associated with illegal abortion, 20% were suicides.

In Canada our maternal death rate is high, approximately 35 deaths per 100,000 confinements in 1963, and 50 per 100,000 in 1959. Many doctors estimate that 25% of these are due to attempted abortion.

In Eastern Europe the average mortality rate for legal abortion is 6 per 100,000, as one writer says, "three times safer than having one's tonsils removed and six times safer than childbirth."<sup>8</sup> In Sweden and Denmark, where abortions are often delayed until after the third month of pregnancy and an abdominal operation is therefore usually necessary, the mortality rate is much higher.

### ATTITUDE OF MAJOR RELIGIOUS BODIES IN CANADA

Opposition to therapeutic abortion has been traditionally theological. The contention that induced abortion is murder dates back to the fourth century of the Christian era. For instance, the Greek Orthodox Church refers to the ecclesiastical canons:

21st of the 1st Ecumenical Council (325 A.D.)

91st of the 6th Ecumenical Council (961 A.D.)

21st of the Council of Ankara (315 A.D.)

2nd and 8th of St. Basil the Great (329 A.D.)

These are authoritative and "cannot be subject to revision in the way that some administrative rulings are."

During the nineteenth century theologians of the Roman Catholic Church engaged in

<sup>7</sup> Fear of Being a Woman.

<sup>8</sup> New Society, August 13, 1964, "Legal Abortion".

controversy about therapeutic abortion, but by the end of the century opposition was silenced by the declarations of the Vatican Congregation of the Holy Office which "decided against the lawfulness of any direct abortion." This is the present ruling and was repeated by Popes Pius XI and XII.

The theological argument has rested mainly on two grounds: one, that murder is contrary to the commandment, "Thou shalt not kill", and two, the supplementary rationale that a foetus receives a soul at conception. Many early Catholic authorities, such as Augustine, Jerome and Aquinas accepted the theory of Aristotle that the foetus did not receive a soul until some time later, distinguishing between a quickened and unquickened foetus. This theory was also accepted by Pope Innocent III in the 13th century, who stated that abortion of a "foetus animatus" was homicide, but of a "foetus inanimatus" was not. In 1588 Pope Sixtus declared that all abortions were homicide, but three years later the theory was again reversed to state that only abortions after the time of quickening, which was then said to be at 116 days, were homicide. Gratian, in the 12th century, who has been called the father of the science of canon law in the early Christian church, said in his *Decretum* that abortion is not murder if the soul has not been infused into the foetus. He did not commit himself as to the time of this animation.

The modern doctrine that a foetus receives a soul at conception is of course vital to the theological opinion of the church, for abortion after a soul has been infused results in the eternal damnation of the soul of the unbaptized foetus. Argument pro and con has at times reached the peaks of absurdity. What the state of a foetus may be when aborted spontaneously we cannot guess. But of all conceptions, one to seven or ten are aborted spontaneously as against full-time pregnancies, from causes including starvation, acute diseases (such as typhoid pneumonia) and sudden severe shock, and abnormality in the foetus. A study by Dr. D. H. Carr of the University of Western Ontario found that 60% of the cases in pregnancies ending in miscarriage that he examined would have produced abnormal babies. The theological complications are interminable.

From a secular point of view, the progressive stand of the United Church seems to be the more enlightened, for it bases its conclusions on a study of the social factors as well

as on religious grounds. Their judgment is that the "Christian Gospel requires us to use our knowledge and skills to combat disease, save life and promote the well being and dignity of every person."

The claim to life of the "unborn child" is weighed against the suffering and the health of the mother. The "full dignity" of the foetus and its "equal and inalienable rights" become questions of a contextual theology, where the "will of God and natural law" are replaced by man's responsibility for his sins and those of mankind which finds expression in good works.

It must not be thought that the Roman Catholic Church is alone in its opposition to abortion. Of the churches consulted in this study, six were against on doctrinal grounds. It is a fundamentalist position and has the weight of much traditional Christian doctrine behind it.

None of the churches, however, are in favour of abortion other than for the cogent grounds. As the Rev. G. R. Hord of the Canadian United Church says: "It is the least satisfying method of birth control." Humanitarian reasons, such as the victims of criminal assault, or eugenic reasons, such as the possibility of deformed or mentally defective children, are not approved. "Strict and dire medical necessity", the view of the Lambeth Conference of Anglican Bishops can be regarded as the limit of present official sanction in the churches, with the exception of the United Church of Canada, which holds that the health, mental or physical, of the mother should also be consulted.

We must first distinguish between a church's opinion with regard to the particular piece of legislation we are now considering and a church's doctrinal position vis a vis abortion. Most churches had no official view of the law, some no doubt because opinions varied within the church about the application of doctrine to social ends, and others because it is the religious principle of the denomination not to enjoin specific acts upon the conscience of their members. Most churches indicating views were against induced abortion on doctrinal grounds and only three of four adopted a permissive approach to the legislation.

A breakdown of replies is arranged in the accompanying table. A short summary will follow here.

Two churches, the Jewish and Ukrainian Greek Catholic failed to reply to our enquiry;

twelve churches indicated that no decision about the legislation had been reached, and one, the United Church, has adopted a specific resolution outlining the policy of the church. Five churches, the Jehovah's Witnesses, the Church of Jesus Christ of Latter-day Saints, the First Church of Christ Scientists, the Mennonite Conference and the Greek Orthodox, replied that no action would be taken; in the cases of the Jehovah's Witnesses and Christian Science because the decision is regarded as a matter for the individual conscience, and possibly all of them because the law of the land is held to be outside the spiritual or religious concerns of the church. Both the Greek Orthodox and Roman Catholic churches are strictly against any form of induced abortion, since to do so is considered a form of murder. The only exception to this is based upon the principle of "double effect", i.e. when a foetus is destroyed in the performance of another necessary surgical procedure, such as removal of a cancerous uterus. All other churches holding fundamentalist doctrinal views, (the majority), agree that induced abortion is

infanticide, based on the commandment, "Thou shalt not kill", or else is simply a crime. Of those who would permit abortion only to save the life of the mother, the Jehovah's Witnesses leave it to the conscience of the individual, and the Anglican Church to "strict and undeniable medical necessity".

Three churches consider their attitude to abortion legislation as capable of modification. The Anglican Church of Canada is awaiting the outcome of a series of studies being made by the Church of England, but no action has been taken in Canada, and the formation of policy will probably await the decisions of the Lambeth Conference of Anglican Bishops in 1968. Both the United Church of Canada, officially, and the Canadian Lutheran Church, unofficially, would sanction therapeutic abortion when continuance of pregnancy is likely to endanger the mother's life or seriously impair her physical or mental health.

None of the churches approved of abortion for eugenic reasons, (deformed or defective child), or humanitarian reasons (criminal assault, etc.).

#### TABLE OF VIEWS ON ABORTION AS INDICATED BY THE MAIN CANADIAN CHURCH DENOMINATIONS

##### *Definitions of doctrinal positions.*

By "fundamental" is meant, holding to a strict and literal statement of belief which cannot change per se.

By "moderate" is meant, holding an intermediate and conservative position between the authority of traditional belief and a modification of policy.

By "progressive" is meant, that doctrinal grounds are a matter for modern interpretation.

##### *Categories of attitude to legislation.*

I. Indicates that legalization of abortion is opposed.

II. Indicates the minimum approval of therapeutic abortion to save the life of the mother.

III. Indicates approval of therapeutic abortion to preserve the mental or physical health of the mother.

Church (in order of size in Canada)	Doctrinal Position	View of Legislation	
		Official	Unofficial
(1) Roman Catholic	fundamental		I
(2) United Church	progressive	III	
(3) Anglican Church	moderate		II
(4) Presbyterian		no decision	
(5) Lutheran	moderate		III
(6) Baptist		no decision	
(7) Jewish	no reply		
(8) Greek-Orthodox	fundamental		I
(9) Ukrainian Greek Catholic	no reply		
(10) Mennonite	fundamental	no action	I
(11) Pentecostal		no decision	
(13) Jehovah's Witnesses	fundamental	no action	II
(15) Mormon	fundamental	no action	I
(18) Christian Science	fundamental	no action	
(20) Free Methodist		no action	

## CONCLUSION

In considering the subject of abortion as Unitarians, we are committed to a positive attitude of social responsibility. We must be at once liberal and pragmatic, trying to preserve what is beneficial to society and to change what is not.

We believe that every child should be wanted, and adequate provision made for his optimum growth. That society is responsible for human suffering, whether as the ill-effects of circumstance or through individual folly, cannot be ignored. To consider that accepting abortion would mean accepting a principle which involves the cheapening of human life is a view which many of us cannot share. To state that there is life in something which cannot exist independently seems to us, at this stage of medical knowledge, a fruitless argument, and one which is far outweighed by the claims of the fully developed human infant.

Some doctors will say that they were trained to save life, not take it. Yet in Julian Huxley's view, the progress of medical science, besides accomplishing control of disease, must also improve the quality of life by providing greater fulfillment for human beings. Our moral attitudes can and must change with the widening of our knowledge about human heredity, infant and maternal health, and the psychological and economic consequences of social problems.

We must seek out the social and economic sanctions of abortion as well as the religious and ethical ones. We must remember that present abortion laws were formulated in an age when man's lifespan was short, and infant and child mortality rates extremely high. (It is estimated that an infant born in 1825 had a 50% chance of surviving to the age of five.) Yet large families were an economic asset to the individual, and an expanding population a political and national necessity. Women had no vote, nor were their opinions or wishes consulted in formulating legislation.

In the words of Dr. Karl Menninger, "Who would decide when the birth of a child might do more harm than good? I think this question has a very clear and direct answer; that the parents themselves can and must and will determine the solution best for them—The wish for a child which so strongly dominates every woman will not allow specious arguments to deter her from obtain-

ing this gratification if it be a reasonable possibility—and I refer not only to economic and physical possibilities but to psychological possibilities as well. The decision may be made unconsciously, but it will be made; and it can be safely left to those for whom during the subsequent years the child will be a primary responsibility. If it is not made, one may be assured that the resistances were so great as to act as danger signals so urgent that they could not be ignored.

"If child-rearing were accorded its deserved importance in human life—if parents, and those who are to become parents, regarded their children as their highest achievement, giving them the best possible environment and training—then the failure to conceive among persons physiologically and economically capable of it would be regarded as evidence of a neurosis, an inhibition requiring treatment. Such a hypothesis would imply that parenthood, instead of being left to chance, ought to be a careful and deliberate choice dictated by intelligence."<sup>(9)</sup>

The general moral attitude to abortion has been slow to change. Besides the religious prohibition, a fear that public morals may deteriorate rapidly if any compromise is shown has undoubtedly strengthened resistance. Whether or not a wide-open program of induced abortion is deleterious to society cannot yet be definitely determined. The record of Japan and other countries which have introduced permissive legislation has been cited by some spokesmen as reflecting an "abortion mood" which has infected family and social life. We feel this is a questionable statement. Our brief survey of the record of other countries where such legislation has been introduced seems to indicate that such is not the case.

The present situation in Canada in regard to marriage breakdown, illegitimacy (in British Columbia 12 out of every 100 babies are illegitimate) and illegal abortion hardly justifies an assumption of superiority on our part. It seems imperative that new solutions be attempted.

Prohibition always tends to drive a problem underground. As usual, it is the ignorant, the unwitting and the poor who have been the main victims of present policy. The rich can afford to pay for the best available care,

<sup>(9)</sup> Love against Hate.

whether professional or criminal, but the poor have recourse to the bungling and dangerous efforts of themselves or amateurs. The social price for forcing unwanted babies on reluctant mothers has been a high price to pay.

In deciding on our opinions about legislative changes, we have considered the fact that for every mother her pregnancy is a personal event, carrying with it certain responsibilities to the newly-quickenening life. What that responsibility is depends on her situation.

We do not wish to force abortion on anyone. We recognize that for many people it is

seen as a moral wrong, but we believe this is a matter for individual conscience and decision.

If we take away a woman's right to abort, we must provide for that mother and her child as specially-privileged people. If we decide that she may abort her child, we must ensure that it is done in safety and without any punitive attitudes. The legislation we promote must be thorough-going, comprehensive and sensible. As Unitarians we have a duty to summon all the evidence, to form our convictions into a consistent policy, and to challenge society with a positive statement of that policy.

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## APPENDIX I

### DEFINITIONS OF ABORTION

An abortion is defined as the premature expulsion of a fertilized ovum or foetus prior to what is considered the age of independent viability, that is, twenty-eight weeks. After the twenty-eighth week and before the full term (forty weeks), it is called premature labour. Miscarriage is a non-medical term.

Abortion can be distinguished as spontaneous, criminal and therapeutic. Criminal abortion means a criminal act, that is, the induced destruction and expulsion of the foetus from the mother by herself or another person unlawfully. Therapeutic abortion is an abortion where the termination of preg-

nancy is advised by the medical profession to preserve the life or physical or mental health of the mother, and may also include eugenic and humanitarian as well as medical and social reasons. Abortions are also referred to as induced or artificial.

Criminal abortion can be deliberately induced by various poisons (e.g. lead, ergot, quinine), by soap injections, and by manipulations, usually by the introduction of a foreign object such as a bougie into the uterus so as to cause infection in the womb, or more effectively by the passage of some instrument through the cervix to puncture the bag of membranes or to disturb the placental attachment.

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## APPENDIX II

### CRIMINAL CODE OF CANADA

Sec. 237. Criminal Code of Canada, Statutes of Canada, 1953-54, Chp. 51.

*Intent to Procure Miscarriage:* (1) Everyone who, with intent to procure the miscarriage of a female person, whether or not she is pregnant, uses any means for the purpose of carrying out this intention is guilty of an indictable offence and is liable to imprisonment for life. (2) Every female person who, being pregnant, with intent to procure her own miscarriage, uses any means or permits any means to be used for the purpose of carrying out her intention is guilty of an indictable offence and is liable to imprisonment for two years. (3) In this section, "means" includes: (a) The administration of a drug or other noxious thing, (b) the use of an instrument, (c) manipulation of any kind.

(Note: no exceptions, no exemptions of any kind.)

The analogous section in law of England is #58 of the Offences against the Person Act. This defines the crime of "unlawfully" using any instrument or other means with intent to procure the miscarriage of any woman.

(Note: (a) The one word "unlawfully" differentiates the law of Canada from that of England, in this respect. In *R. v. Bourne* 1938, the Judge took the view that since "unlawful" use was specified, there must then be the implication of a lawful use, i.e. the preservation of the mental and physical health of the mother. (b) This word "unlawful" has been omitted from the revised Canadian Criminal Code of 1955.)



## BIBLIOGRAPHY

1. The Sanctity of Life and the Criminal Law.  
by Glanville Williams  
Alfred A. Knopf, New York 1957.
2. Sex Ways—In Fact and Faith  
edited by Evelyn N. & Sylvanus M. Duvall  
Associated Press, New York 1961.
3. Pregnancy, Birth & Abortion.  
Institute for Sex Research, Inc., Indiana University.  
Harper & Brothers, Publishers and Paul B. Hoeber, Inc., Medical Books, 1958.
4. Therapeutic Abortion.  
edited by Harold Rosen, Ph.D., M.D.  
The Julian Press Inc., New York 1954.
5. Abortion and the Law.  
by David Lowe  
Pocket Books, a div. of Simon & Schuster Inc., New York 1966.
6. The Nameless. Abortion in Britain Today.  
by Paul Ferris  
Hutchinson of London Ltd., 1966.
7. Family Planning and Population Programs.  
edited by Berelson, Anderson, etc.  
University of Chicago Press, 1965.
8. Family Planning and Modern Problems, a Catholic Analysis.  
by S. de Lestapis.  
Herder and Herder, New York, 1961.
9. Abortion in the United States.  
A Conference sponsored by the Planned Parenthood Federation of America.  
edited by Mary Calderone, M.D.  
Paul Hueber, Medical Div. of Harper Bros., New York 1958.
10. Fear of Being a Woman.  
by Rheingold.  
Grune and Stratton Inc., New York 1964.
11. Therapeutic Abortion.  
A report prepared for the California legislature, 1962.
12. New Society, June 11, 1964  
Czechoslovakia's Abortion Law  
by Adolf Hermann.
13. New Society, August 13, 1964  
Legal Abortion  
by Peter Darby.
14. Love Against Hate  
by Karl Menninger  
Harcourt, Bruce & World Inc., 1942.
15. Crimes Without Victims  
Edwin M. Schur  
Prentiss Hall, 1965.

## APPENDIX "K"

## ELIZABETH II

(Coat of Arms)

## 1967 CHAPTER 87

An Act to amend and clarify the law relating to termination of pregnancy by registered medical practitioners. [27th October 1967]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) Subject to the provisions of this section, a person shall not be guilty of an offence under the law relating to abortion when a pregnancy is terminated by a registered medical practitioner if two registered medical practitioners are of the opinion, formed in good faith—

(a) that the continuance of the pregnancy would involve risk to the life of the pregnant woman, or of injury to the physical or mental health of the pregnant woman or any existing children of her family, greater than if the pregnancy were terminated; or

(b) that there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped.

(2) In determining whether the continuance of a pregnancy would involve such risk of injury to health as is mentioned in paragraph (a) of subsection (1) of this section, account may be taken of the pregnant woman's actual or reasonably foreseeable environment.

(3) Except as provided by subsection (4) of this section, any treatment for the termination of pregnancy must be carried out in a hospital vested in the Minister of

Health or the Secretary of State under the National Health Service Acts, or in a place for the time being approved for the purposes of this section by the said Minister or the Secretary of State.

(4) Subsection (3) of this section, and so much of subsection (1) as relates to the opinion of two registered medical practitioners, shall not apply to the termination of a pregnancy by a registered medical practitioner in a case where he is of the opinion, formed in good faith, that the termination is immediately necessary to save the life or to prevent grave permanent injury to the physical or mental health of the pregnant woman.

2.—(1) The Minister of Health Notification. in respect of England and Wales, and the Secretary of State in respect of Scotland, shall by statutory instrument make regulations to provide—

(a) for requiring any such opinion as is referred to in section 1 of this Act to be certified by the practitioners or practitioner concerned in such form and at such time as may be prescribed by the regulations, and for requiring the preservation and disposal of certificates made for the purposes of the regulations;

(b) for requiring any registered medical practitioner who terminates a pregnancy to give notice of the termination and such other information relating to the termination as may be so prescribed;

(c) for prohibiting the disclosure, except to such persons or for such purposes as may be so prescribed, of notices given or information furnished pursuant to the regulations.

Medical  
termination  
of  
pregnancy.

(2) The information furnished in pursuance of regulations made by virtue of paragraph (b) of subsection (1) of this section shall be notified solely to the Chief Medical Officers of the Ministry of Health and the Scottish Home and Health Department respectively.

(3) Any person who wilfully contravenes or wilfully fails to comply with the requirements of regulations under subsection (1) of this section shall be liable on summary conviction to a fine not exceeding one hundred pounds.

(4) Any statutory instrument made by virtue of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Application  
of Act to  
visiting  
forces etc.

3.—(1) In relation to the termination of a pregnancy in a case where the following conditions are satisfied, that is to say—

(a) the treatment for termination of the pregnancy was carried out in a hospital controlled by the proper authorities of a body to which this section applies; and

(b) the pregnant woman had at the time of the treatment a relevant association with that body; and

(c) the treatment was carried out by a registered medical practitioner or a person who at the time of the treatment was a member of that body appointed as a medical practitioner for that body by the proper authorities of that body,

this Act shall have effect as if any reference in section 1 to a registered medical practitioner and to a hospital vested in a Minister under the National Health Service Acts included respectively a reference to such a person as is mentioned in paragraph (c) of this subsection and to a hospital controlled as aforesaid, and as if section 2 were omitted.

(2) The bodies to which this section applies are any force which is a visiting force within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952 and any headquarters within the meaning of the Schedule to the International Headquarters and Defence Organisations Act 1964; and for the purposes of this section—

(a) a woman shall be treated as having a relevant association at any time with a body to which this section applies if at that time—

(i) in the case of such a force as aforesaid, she had a relevant association within the meaning of the said Part I with the force; and

(ii) in the case of such a headquarters as aforesaid, she was a member of the headquarters or a dependant within the meaning of the Schedule aforesaid of such a member; and

(b) any reference to a member of a body to which this section applies shall be construed—

(i) in the case of such a force as aforesaid, as a reference to a member of or of a civilian component of that force within the meaning of the said Part I; and

(ii) in the case of such a headquarters as aforesaid, as a reference to a member of that headquarters within the meaning of the Schedule aforesaid.

4.—(1) Subject to subsection (2) of this section, no person shall be under any duty, whether by contract or by any statutory or other legal requirement, to participate in any treatment authorised by this Act to which he has a conscientious objection:

Provided that in any legal proceedings the burden of proof of conscientious objection shall rest on the person claiming to rely on it.

Conscientious  
objection  
to partici-  
pation in  
treatment.

(2) Nothing in subsection (1) of this section shall affect any duty to participate in treatment which is necessary to save the life or to prevent grave permanent injury to the physical or mental health of a pregnant woman.

(3) In any proceedings before a court in Scotland, a statement on oath by any person to the effect that he has a conscientious objection to participating in any treatment authorised by this Act shall be sufficient evidence for the purpose of discharging the burden of proof imposed upon him by subsection (1) of this section.

Supple-  
mentary  
provisions.  
1929 c. 34.

5.—(1) Nothing in this Act shall affect the provisions of the Infant Life (Preservation) Act 1929 (protecting the life of the viable foetus).

(2) For the purposes of the law relating to abortion, anything done with intent to procure the miscarriage of a woman is unlaw-

fully done unless authorised by section 1 of this Act.

6. In this Act, the following Inter- expressions have meanings here- pretation. by assigned to them:—

“the law relating to abortion” means sections 58 and 59 of the Offences against the Person Act 1861, and any rule of law relating to the procurement of abortion;

“the National Health Service Acts” means the National Health Service Acts 1946 to 1966 or the National Health Service (Scotland) Acts 1947 to 1966.

1861 c. 100.

7.—(1) This Act may be cited as the Abortion Act 1967.

Short title,  
commence-  
ment and  
extent.

(2) This Act shall come into force on the expiration of the period of six months beginning with the date on which it is passed.

(3) This Act does not extend to Northern Ireland.

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HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1967

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STANDING COMMITTEE  
ON  
**HEALTH AND WELFARE**

*Chairman:* Mr. HARRY C. HARLEY

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MINUTES OF PROCEEDINGS AND EVIDENCE

No. 8

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THURSDAY, NOVEMBER 16, 1967

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Respecting the subject-matters of  
Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

---

WITNESSES:

*Representing The Catholic Physicians Guild of Manitoba:* Dr. Paul V. Adams, B.A., M.D., F.R.C.S. (C), F.A.C.O.G., and Dr. Kevin J. R. Ford, M.R.C.S., L.R.C.D., D.P.M., Cert. Psychiatrist, both of Winnipeg.  
Dr. J. A. Tallon, M.D., F.R.C.S.(C), of Cornwall, Ont.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1967

STANDING COMMITTEE

ON

HEALTH AND WELFARE

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*Vice-Chairman:* Mr. Gaston Isabelle

and

Mr. Allmand

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Mr. Matte

Mr. O'Keefe

Mr. Orange

Mrs. Rideout

Mr. Rochon

Mr. Rock

Mr. Rynard

Mr. Simard

Mr. Stanbury—(24).

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

THURSDAY, November 16, 1967.

(9)

The Standing Committee on Health and Welfare met this day at 11:15 o'clock a.m., the Chairman, Mr. Harry C. Harley, presiding.

*Members present:* Mrs. MacInnis, Mrs. Rideout and Messrs. Allmand, Brand, Cowan, Enns, Harley, Howe (*Wellington-Huron*), Isabelle, Knowles, MacDonald (*Prince*), Matte, O'Keefe, Rochon, Rynard, Stanbury (16).

*In attendance: Representing The Catholic Physicians Guild of Manitoba:* Dr. Paul V. Adams, B.A., M.D., F.R.C.S.(C), F.A.C.O.G., and Dr. Kevin J. R. Ford, M.R.C.S., L.R.C.D., D.P.M., Certified Psychiatrist, both of Winnipeg.

Also Dr. J. A. Tallon, M.D., F.R.C.S. (C), of Cornwall, Ontario.

The Committee resumed consideration of the subject-matter of Bills C-122, C-123 and C-136.

The Chairman read into the record an invitation from the National Film Board to a screening of a film on Abortion.

Dr. Adams read a prepared statement regarding the proposed changes in the Abortion laws of Canada.

Dr. Ford commented on the psychiatric implications of the proposed legislation.

Dr. Tallon was called and also made a statement.

Dr. Adams, Dr. Ford and Dr. Tallon were questioned.

*Agreed,—*That the brief submitted by the Catholic Physicians Guild of Manitoba be printed as an appendix to this day's proceedings (*see Appendix "L"*).

The Chairman thanked Dr. Adams, Dr. Ford and Dr. Tallon for having come before the Committee and at 1:15 p.m. the Committee adjourned to 11:00 a.m., Tuesday, November 21, to hear Dr. F. Clarke Fraser, of Montreal.

Gabrielle Savard,  
*Clerk of the Committee.*



## EVIDENCE

(Recorded by Electronic Apparatus)

Thursday, November 16, 1967

• (11:10 a.m.)

**The Chairman:** Ladies and gentlemen, first of all I would like to read into the record a letter from the National Film Board.

This confirms the arrangements made by telephone to screen for the Committee the Board's incomplete film on abortion. The screening will take place at 7:00 p.m. on Thursday, November 23rd here at 150 Kent Street in our preview theatre where we can show the picture and separate sound track together.

The Board's Director of Production, Mr. Julian Biggs, will be present and he will have with him two colleagues who were involved in the production and testing of the material in case questions of content or reaction should arise.

T. V. Adams,  
Chief,  
Liaison Division.

**Mr. O'Keefe:** Could we not have the picture shown in the Railway Committee room of the House of Commons?

**The Chairman:** No, we could not because of picture and sound track problems. We already have checked into that and apparently it is not possible.

**Mr. Knowles:** No doubt the Secretary will be sending us a notice?

**The Chairman:** Yes, the Secretary will do that.

**Mr. Knowles:** It is in the constituency of the Minister of Public Works.

**The Chairman:** Today we have two presentations, the first of which will be made by The Catholic Physicians Guild of Manitoba. You have had the brief in your possession for some time. The two doctors representing that organization are Dr. Adams who is an obstetrician, and Dr. Ford who is a psychiatrist. In addition, we have an individual physician, Dr. Tallon from Cornwall, who will speak on the topic we have before us. We will call first on the representatives of

The Catholic Physicians Guild of Manitoba, Dr. Adams.

**Dr. Paul V. Adams (The Catholic Physicians Guild of Manitoba):** Mr. Chairman, ladies and gentlemen of the Committee, it is with pleasure that we are here today to present the brief from The Catholic Physicians Guild of Manitoba to you, and also to answer any questions that you may have in regard to this brief and to our attitude toward therapeutic abortion.

The Catholic Physicians Guild is a group of about one hundred practising physicians in Manitoba. It is an autonomous body which is associated with The National Federation of Catholic Physicians in the United States. Article 2 of the Constitution of the Guild says that the object of this Guild shall be the promotion and observance of moral principles in medical education and practice according to the understanding of the Catholic Church.

I will not read the brief in detail unless it is your wish. In effect it states that as practicing physicians we react strongly against the proposed widening of indications for therapeutic abortions. The sanctity and safety of human life have been upheld in Canada in the past by general consensus and by law. The unborn foetus at term is not essentially changed by the birth process and has rights to life similar to those of the newborn baby. There is no identifiable time during embryonic and foetal development when the organism makes a definite change such that it becomes recognizably human whereas it was not previously human. Therefore since the embryo and foetus are human beings with all their potentialities present, and since no one can show that they are other than human beings prior to a certain stage of development, we must allow them all the rights to life which are granted to other humans.

• (11:20 a.m.)

Section 209 of the Criminal Code which is at present in force states two important facts—in sub-section (1) the recognition of the right to life of the unborn foetus is stated—in sub-section (2) there is granted legal

justification for those who feel impelled to cause abortion in a woman whose life may be threatened by the pregnancy.

We are sincere in our belief that there is sanctity in human life. Our view is not apparently universally held but we do feel that the law grants sufficient leeway already to those who are not as strict as we are. Section 209—sub-section (2) at present covers situations where the mother's life is endangered. We ask therefore that the law not be changed.

Possibly medical progress in the treatment of the pregnant woman would have been less spectacular in the past century if in medical and surgical complications of pregnancy abortion had been used more freely.

Also the death penalty is frequently withheld since juries may in error judge an innocent man to be guilty. Why do we now turn to the destruction of the untried and defenceless unborn child?

Furthermore, if the right is granted to kill the unborn for reasons other than to preserve the life of the mother, so it is only a short step to granting permission to killing living defectives and even healthy individuals.

We believe that the procedure of abortion is a direct attack on human life and should be considered as both immoral and criminal. We find it disturbing that even the serious discussion of premeditated destruction of human life should be considered. We find it more disturbing that any responsible body should recommend that it be legalized.

In a country such as ours there are people of many different backgrounds and religious beliefs. In a discussion on the subject of therapeutic abortion the opinions are as varied and as numerous as the people entering into that discussion. In a subject with so little unanimity surely there is no indication for embarking on a radical new course. We do not intend to be dictatorial but we do wish to express our concern for, and interest in, the mores of our country. It is true that one cannot legislate morality. However laws are required to outline the broad aspects of the country's morality—for which reason euthanasia, bigamy, and indecent exposure are among some aspects of our life that are controlled by laws. Similarly we consider that matters concerned with human life are equally as important and require strict control.

If I may, I would like to make a few additional comments in regard to the proposed amendments in the law. It has been

proposed that therapeutic abortion be performed for three broad outlines, three indicated outlines.

The first suggested reason for therapeutic abortion is when there is substantial risk of a defective child being born. Even when we are absolutely certain that an individual has a severe disability, I deny that we have the right to take that individual's life. In fact however, the occasion when it is possible to be absolutely certain that a grave defect exists in a foetus or embryo must be so rare as to be almost non-existent. In Rubella or German measles, the incidence of grave defect is of about the order of 50 per cent in the first four weeks, about 14 per cent in the fifth to the eighth week, about 10 per cent in the ninth to the twelfth week, and after that when Rubella is incurred the chances of an abnormality are hardly increased over the average expected incidence. Therefore even in the most severe case of Rubella there is a 50 per cent chance that abortion will destroy a normal healthy foetus; after that 86 per cent, 90 per cent and then almost 100 per cent chance that a normal foetus will be destroyed. Where is the logic in this procedure? Especially we must remember that we are dealing with human life, and that with medical and surgical advances many of the defects that occur are now correctible. In one of your earlier discussions I noticed that there was mention of thalidomide-affected babies. One of my doctor friends who is a member of our Guild has a child who is in fact grossly affected in that he has no legs and his arms are quite deformed due to maternal thalidomide. Although this has been an unfortunate development yet this child has brought joy and humour into his home. I spoke to the father before coming here and he assured me that if this had been known prior to the child's delivery there would have been no thought of an abortion being performed. From knowing this child and observing his intelligence and the fact that he enjoys life to its fullest extent, it is evident that he will contribute a good deal to humanity during his lifetime.

The second suggested reason for therapeutic abortion is when the pregnancy is the result of rape or incest. The great misfortune here of course is the sexual offence itself. Nothing we can do after the offence has occurred can remove the scars resulting from the incident. If pregnancy occurs, the answer

to the problem is not in destroying the innocent foetus. Naturally, prevention of the offence is most to be desired but once it has occurred then society should do everything possible to help the injured party—that is, the pregnant girl. When the baby arrives, adequate facilities for his welfare, education and above all his requirement for love and attention, should be provided. In a society where the miracle of computers, supersonic flights and flights to distant planets are now almost commonplace, surely it is possible to provide facilities for a hapless individual rather than to solve his problems by destroying him.

The third suggested reason for therapeutic abortion is when the continuance of the pregnancy would involve serious risk to the life or grave injury to the health, either physical or mental, of the pregnant woman. We have to divide this into three basic parts. The first is where serious risk to the life of the mother is present. This is already covered by section 209 subsection (2) of the Criminal Code and we are not trying to change this. The second part of this suggested indication is where grave injury to the physical health of the pregnant woman is present. This is no longer the problem that it was in former years. I have consulted many reputable authors in numerous journals in regard to the subject of complication of pregnancy and I find no instance where abortion is the preferred method of treatment. I will not enlarge on this at present. The third part of the indications where it is suggested abortion be performed is where grave injury to the mental health of the pregnant woman is anticipated. This falls within the sphere of Dr. Kevin Ford, a practising psychiatrist who is with me, and I would ask him to say a few words in this regard.

**Dr. Kevin J. R. Ford, M.R.C.S., L.R.C.D., D.P.M. (Cert. Psychiatrist):** Mr. Chairman and members of the Committee, I would like to comment on the psychiatric implications of the proposed legislation.

• (11:30 a.m.)

A review of recent literature on this subject indicates several trends, of which the most important for my present purpose is the very high incidence of termination of pregnancy on psychiatric grounds. Interruption of pregnancy for psychiatric indications is given as the commonest reason for therapeutic abortion in the United States. In one four-year study from 1960 to 1964 in the States,

there were 80 therapeutic abortions per 15,000 deliveries, 77.5 per cent of these therapeutic abortions were done on psychiatric grounds. Another authority states that the incidence of therapeutic abortion on psychiatric grounds is 85 per cent of all cases in the last few years. All of which leads one to ask: Is there really so much psychiatric illness associated with these cases, or is this merely an instance in which psychiatry is being prostituted to serve ends which are largely social? It is no accident that termination on psychiatric grounds has pride of place. The very nature of psychiatry, where so little is known about so much, lays it open to something very close to exploitation. But there is an even greater opportunity for exploitation and that is with the concept of mental health. This, at best, is a vague, unworkable ideal which has little to do with psychiatry, public opinion notwithstanding. But because it is a cardinal point in the proposed legislation, it is worthy of further examination.

The World Health Organization and its expert committee on mental health defines it as follows: "Mental health, as the committee understands it, is influenced by both biological and social factors. It is not a static condition but subject to variations and fluctuations of degree; the committee's conception implies the capacity in an individual to form harmonious relations with others, and to participate in, or contribute constructively to, changes in his social and physical environment. It implies also his ability to achieve a harmonious and balanced satisfaction of his own potentially conflicting instinctive drives—harmonious in that it reaches an integrated synthesis rather than the denial of satisfaction to certain instinctive tendencies as a means of avoiding the thwarting of others. It implies, in addition, an individual whose personality has developed in a way which enables his potentially conflicting instinctive drives to find harmonious expression in the full realization of his potentialities."

This is obviously the widest possible definition of the subject encompassing as it does the entire gamut of human experience and behaviour. The point must surely be that anything that affects the emotional state of an individual—and that, in fact, is everything—can be considered as coming under the heading of mental health. There must be a great many women who on learning they are pregnant are unhappy about it. This, by definition, would have to be considered at

least a temporary lapse from mental health. It is unlikely that many psychiatrists would recommend termination on such grounds but it is in precisely such cases where the extent of the unhappiness assumes greater proportions, and where what might now properly be called symptoms appear to be persistent that many psychiatrists would consider therapeutic abortion justified. But the difference between the first example and the latter is simply one of degree. Where then does one draw the line? Or should there be any line at all? A woman qualifying for therapeutic abortion as soon as she complains of anything while pregnant. The current concepts of mental health are certainly elastic enough to permit of so fantastic an interpretation.

In such cases there are three factors to be considered. One of them, the pregnancy itself, is the common denominator and can be considered invariable. The other two are the premorbid personality and the social circumstances. The premorbid personality is a fait accompli about which little can be done but its importance lies in the fact that its characteristics determine the nature and extent of any reaction to circumstances either internal or external, or both. It is generally accepted that no amount or kind of stress will evoke a maladaptive or abnormal response in the individual unless there is a predisposition thereto; and correspondingly the better adjusted personalities can take a good deal more stress before these responses appear.

Therefore pregnancy being the invariable and unvarying factor in the cases in question, the variables would appear to be the premorbid personality and the social circumstances of the patient. Or to put it another way, these two interact in the presence of a pregnancy which although it has its intrinsic qualities and implications is, nevertheless, a non-specific stress. Any would do as long as it was the same throughout the series. To make the analogy reasonably close we could for example substitute the menopause for pregnancy and then study the effect of this condition as the invariable on the interaction between premorbid personality and social circumstances in a variety of patients. We would undoubtedly see a similar range of responses which would differ neither quantitatively nor qualitatively from those seen in the pregnancies.

If this were so, and in my opinion there is every likelihood that it would be, one is forced to the conclusion that the pregnancy

in such cases is merely an accident in its literal sense—something which has happened—complicating and adding to the ongoing process of personality and environmental interaction, and as such of no greater or lesser importance in the life of a woman than the arrival of the unexpected and unwelcome guest, who announces he is going to stay for an indefinite period. This situation may be handled by asking him to leave or resorting to stronger measures, but however stressful his presence the one thing you can't do is shoot him. The law would consider such an act murder and the mitigating factors trivial and if the defense offered were that the shooting of the unwelcome guest was necessary in order to preserve the mental health of the woman, the court's opinion would probably be that such an act was not justified by the circumstances—illustrating very well the principle that the end does not justify the means.

The parallel with the sort of cases I have been talking about, where therapeutic abortion is contemplated, is inescapable, with the important difference, which you have probably heard *ad nauseam*, that the fetus is innocent, defenseless and unrepresented.

But not all mental states in pregnancy can be considered the response of the abnormal personality to stress. The psychoses associated with pregnancy, either pre-existing or developing during it, form an important though small group. The view has been expressed that this association constitutes a *prima facie* indication for termination. Clinical experience, however, points in a different direction, namely, that affective illness never constitutes an indication for termination and that schizophrenia is not seriously affected by pregnancy. One authority has reported on a series of 213 puerperal psychoses, all of which were carried successfully to term. The fact is that puerperal psychosis can be treated successfully with modern methods and does not constitute an indication for termination.

The psychiatric consequences of termination of pregnancy should not go unnoted. Serious, permanent psychiatric sequelae in from 9 to 59 per cent of cases were quoted in the report by the council of the Royal College of Obstetricians and Gynaecologists in England and neuroses, with ideas of guilt, self-reproach, frigidity, dyspareunia and vaginismus were reported common by Muller and estimated to occur in 20 to 40 percent of

cases by Serdjukov. Four authors report an incidence of guilt reactions of 25 to 37 per cent. The overall average of these figures is about 30 per cent which, by any medical standard, is a high incidence of complications for any procedure. Does not this in fact mean that in about a third of cases you are likely to produce the very thing you set out to cure, namely, mental ill health?

One of the commonest ways for a patient to present for an opinion about therapeutic abortion is with the threat of suicide. There is nothing more likely to force the doctor's hand than this and I have little doubt that it has been used frequently as the reason for recommending termination. However, once again, the available opinions indicate a different story. The Royal College of Obstetricians and Gynaecologists report states that it is extremely rare for suicide to take place following refusal of termination for psychiatric reasons. Anderson, in a series of 90 patients, had 33 threatening suicide but only one in fact committed suicide a year later and the refusal of termination was only one amongst other factors. And Lindberg reported on 304 patients with 62 threatening suicide, but without any actual suicides.

I would like now, if I may, to move from a consideration of the mainly psychiatric aspects of the proposed legislation to the mainly social. To do this satisfactorily it is necessary to consider the experiences of countries other than Canada within the area under discussion. Whilst it is recognized that one cannot translate these experiences in their totality to the Canadian scene without some recognition of, and allowance for, the differing cultural patterns, it must be stated that these are essentially human as opposed to political or cultural problems and that the findings in these other countries may very well apply here without too much modification.

• (11:40 a.m.)

In Japan, where abortion on socio-economic grounds is legal, the rate for such abortions rose to one million per annum but did not appear to reduce the number of illegal abortions which rose to the same level in the same year. In the Eastern European countries, where legal abortion is available on demand, 90 to 99 per cent of all abortions were performed for personal or social reasons, the disparity between family size and desire for a higher standard of living playing

an important role. It was 50 per cent higher for families without their own dwelling, independent of the number of children and in a fifth to a third of cases was based on bad housing. Indicator of social disparity in therapeutic abortion were reported in two studies from the United States. One in New York City showed that 90 per cent of therapeutic abortions were performed on white females and that the ratio of therapeutic abortion in private hospitals compared with municipal hospitals was 3.9 per 1000 births as opposed to 0.1 per 1000, while that between private and public patients was 2.4 per 1000 as opposed to 0.7 per 1000. In a further study reported from the U.S.A. in the period 1943-64, therapeutic abortion in private patients rose from 4.0 to 9.6 per 1000 births while those in clinic patients decreased from 3.9 to 0.3 per 1000.

Certain tentative conclusions can be drawn from these varied experiences. It does not look as if the legalization of abortion reduces the incidence of illegal abortion. In this connection the Royal College of Obstetricians and Gynaecologists states that legislation (to legalize abortion) alters the climate of opinion among the public, and even the courts of law, so that criminal abortion becomes less abhorrent. The figures I have quoted tend to show that the white, affluent, probably better-educated female is more likely to have a therapeutic abortion performed than her less fortunate sister. And, finally, we are witnessing what appears to be an increasing trend.

When one puts these observations on the social aspects of therapeutic abortion together with the known facts relating to psychiatric aspects as commented on previously, but in particular the disproportionately high incidence of termination on psychiatric grounds, one cannot help but feel that perhaps a large number, maybe the majority of terminations on psychiatric grounds, are in fact performed for largely social reasons. This, I believe, is the present situation. What of the future?

The proposed legislation, taken collectively, may seem at first sight to be nothing other than a reasonable approach to broadening the grounds for therapeutic abortion, whilst at the same time keeping this procedure under adequate control. I regret to say I cannot share this optimism. In all conscience I would have to say that bearing in mind the latitude that the concepts underlying these proposals allow, they represent nothing more clearly than the thin end of the wedge.

**The Chairman:** Thank you, Dr. Ford. Dr. Tallon?

**Mr. J. A. Tallon, M.D. (Cornwall, Ontario):** First of all, Mr. Chairman, I would like to express to you my appreciation for permitting me to attend this meeting. It is probably presumptuous on my part as an individual to have asked you to permit me to come here today but, on the other hand, I feel that as a citizen, as a doctor and as a Christian who believes in God and the sanctity of human life, I have possibly a right to be here.

My history is simply that I am an English-speaking doctor who can speak and understand French well. I studied for several years in the Province of Quebec. I graduated from McGill University in 1919 and I have been practising since that year. I have, by examination, a fellowship in general surgery in the Royal College of Surgeons, 1944.

For the last 10 years I have taken an interest in organized medicine, and for five years I was a member of the board of directors of the Ontario Medical Association and of the Ontario Medical Association Council as well as a member of the Canadian Medical Association Council. I attended all the meetings of the Canadian Medical Association during those years.

Much of the material that I thought I might use today has been so very wonderfully covered by Dr. Adams and Dr. Ford that repetition would practically be out of order.

Coming back to the basic philosophy of life, and the philosophical definition of the soul, it is that it is the principal of life; in other words, if there is no soul then an animal has no life. The difference between the lower animals and the human animal is that when an animal's body dies the soul dies; whereas with a human being it is our belief and our conviction that the soul does not die when the body dies but goes on and lives for eternity.

The situation has so developed that many have postulated the fact that a foetus, or an embryo, is not a human being and therefore has no right as a human being. Yet this spring the Boston Supreme Court definitely came out and said that the foetus is a human being in every sense of the law and has a right to all the privileges of a human being.

An unborn baby is a person in the eyes of the law and thus has a right to recover damages for wrongful injury. Last week, as

you may have read in the newspapers, the question came up about thalidomide babies, and it was definitely stated that they also have a right to recover damages for wrongful injury. And as you know all thalidomide babies suffered their deformities in the first three or four weeks of conception.

Mr. Chairman, I do not know if the Committee knows—I know that you and other doctors do—just what happens when conception occurs. If you will permit me to make a few remarks on the subject, it might clarify the situation for the non-medical members of the Committee.

Conception occurs usually in the fallopian tube, and when the sperm meets the ovum it becomes a fertilized ovum. The fertilized ovum, which is known as a zygote, then travels down the tube and becomes fixed to the internal membrane of the uterus. It grows there up to probably the eighth or ninth week, and as it grows it lives on its own yolk. In other words, it is called a zygote fertilized ovum and receives its nourishment from the mother and divides, and they call that living on the yolk the allantoic circulation. Then in the eighth or ninth week this allantoic circulation switches over to the placenta circulation. In other words, an umbilical cord is formed and the growing embryo or fetus receives its nourishment and gets rid of its waste products through the umbilical cord until maturity.

• (11:50 a.m.)

We know that most spontaneous abortions occur at that time, at about the eighth or ninth week, when there is this switch from the allantoic circulation to the placenta circulation, but in every sense of the term that individual is a live human person whether it is still a zygote, when it receives its nourishment from the yolk or later on when it receives its nourishment through the umbilical cord.

I have several booklets here which I am quite willing to leave with the Committee if they wish. Much of this material is a repetition of Dr. Adams' and Dr. Ford's briefs.

I attended a meeting in Quebec where I had prepared a talk in favour of the amendment that the Ontario Medical Association had submitted to the Canadian Medical Association on their recommendation. The Canadian Medical Association recommended:

If continuation of the pregnancy will endanger the life or health of the preg-

nant female or there is substantial risk that the child may be born with a grave mental or physical disability, and the operation is performed by a duly qualified and licensed medical practitioner, in a hospital accredited by the Canadian Council on Hospital Accreditation after approval by a Therapeutic Abortion Committee of such hospital, or

Where there are reasonable grounds to believe that a sexual offence has been committed from which pregnancy has resulted.

The Ontario Medical Association, as you know, is a voluntary association having a membership of over 8,000 doctors, which is practically half the doctors in the Dominion of Canada, and they submitted this amendment to the resolution of the Canadian Medical Association:

That the Canadian Medical Association recommend to the Minister of Justice that the Criminal Code of Canada be amended so as to provide that an operation for the termination of pregnancy shall be lawful:

If the continuation of the pregnancy will endanger the life or health of the pregnant female and that the resolution regarding therapeutic abortion be referred to the Minister of Justice as soon as possible.

At that time I spoke in favour of the amendment and the note which was made in the minutes sent to the Canadian Medical Association was to the effect that Dr. Tallon urged the General Council to give serious consideration to this question and pointed out that he was in favour of the amendment, particularly as it related to safeguards prior to the procedure. I could do that in conscience simply because, as Dr. Ford has already mentioned, the necessity for therapeutic abortion in the interests of the physical health of the mother is not a point of argument any more. There is no reason for it and it is superfluous.

As far as the psychiatric situation is concerned, that has been well covered by Dr. Ford. This puts me in mind of the story about the woman who was going to have a baby and she was mentally disturbed about it. Her gynaecologist was worried and lost a lot of sleep over the situation and then two psychiatrists came in and, after examining the woman in that respect, decided right

there and then that she should have a so-called therapeutic abortion. The gynaecologist then turned half way in his chair as the psychiatrists were going out the door and said, "That is fine, gentlemen; you go ahead and do it".

If you remember, Dr. Aitken was here the other day. He is Assistant Secretary to the Canadian Medical Association, and he was asked how doctors feel about therapeutic abortion. He said it is very distasteful to doctors to do so-called therapeutic abortions. In fact, many, many doctors, irrespective of their Christian or other beliefs, absolutely refuse to do it. It puts me in mind of a situation we had when I was a youngster. Probably some of you other gentlemen here will remember when we had an official hangman, who was a man named Ellis. He was employed by the government and he got so much a hanging. He used to keep by himself and go out by himself and he was not very socially acceptable to the people of the community in which he visited. This so-called therapeutic abortion is to me like setting up the medical profession as official hangmen. I do not care whether you call them "hangmen" or "murderers", it makes no difference, but we must start from the basis that a human foetus is a human being with all the attributes and rights of a human being.

When I was in Quebec at that meeting I wrote a few notes both in French and English and, probably not sensing the importance of the situation in Quebec. I thought it would be a nice gesture if I gave my talk in French. It was in the City of Quebec 100 years ago that the Canadian Medical Association first came into being. Sir Charles Tupper was the first president and I thought it would be a nice centennial gesture and also a gesture to our French Canadian colleagues if I gave my talk in French. I did so, but after it was over and the meeting had closed many doctors came to me and said, "Well, doctor, we did not understand a word you were saying". It is a strange thing and it is too bad. It will probably correct itself in time but the situation at that meeting was that very few of the doctors present understood what I said.

If you will permit me, Mr. Chairman and gentlemen, I will just read a short summary of the remarks I made at that time:

Mr. Chairman and fellow doctors, I do not want to discuss with you as a moralist the subject of abortion, this subject

has already been well discussed on other occasions, but I would like to draw to your attention the subject of so-called therapeutic abortions.

Then I went on to describe the soul as the principle of life and the legal opinions of eminent men who feel that a foetus is a person and it has the right to be reimbursed for any damage that may be inflicted upon it.

What concerns me, and I ask you to ponder this, is what will be the image of our profession if we approve this resolution of abortion? I am a life member of the Ontario Medical Association, of which I am proud. I am also a senior member of the Canadian Medical Association. I do not think any higher honour could be paid to any doctor in the Association. Probably they thought I deserved this honour and one has to bow to the will of one's peers to decide whether I deserved it or not. However, I have received this honour and I have a great and high regard for our profession. I think gentlemen, that if we go back in recent history and review what happened in Germany during the last war we are bound to note the German disregard for human suffering and human life. Of course, war is hell, we all admit that, but this was a situation where 6 million people were destroyed without any reason except that they did not belong to the German race or to the German idea of what a human being should be. If we go back to that time we find that hundreds of thousands of abortions were performed and most of the people were killed by doctors. They put the medical profession down so low that instead of being men who looked forward and upward to the preservation of human life they really made them butchers, and that to me, gentlemen, sort of has a counterpart in this endeavour to try to foist on the medical profession the responsibility of destroying human life.

• (12:00 noon)

As has already been mentioned, it is a strange thing when we take into account that the House of Commons is considering the abolition of capital punishment. In one of the Toronto papers yesterday it showed a picture of a woman who died from a broken heart. I can readily believe it because her husband had been shot in cold blood, there were four bullets in his body. He was a store-keeper and he and his wife had been married 45 years. Yet when the man who did this is

caught, according to what I understand the feeling of this Parliament to be, he will not pay the penalty of the crime except that possibly he will be sentenced to life imprisonment. Then, gentlemen, we take a little innocent child in the womb of its mother and just because it might cause the mother a little worry or there might be a deformity we destroy that child for social or pseudo-medical reasons.

As you know, medical science is making so many advances from year to year that the time will come when it will be quite possible—it is presently on the verge—that deformities and defects will be recognized even in an embryo and if such should happen then, according to the pro-abortionist, it would be quite legal to perform an abortion. Everyone admits that the medical profession is held in the highest esteem and it is looked upon with honour and respect by all peoples of the world. Are we going to destroy this image? Our principles have always been to cure, relieve and console, but this resolution would permit the government to destroy the life of an innocent unborn child.

You may have seen in yesterday's *Toronto Star* an article about the wonderful work Dr. Gordon Murray has done in the case of a paraplegic. Dr. Gordon Murray has also done wonderful work in years past both in research and surgery and I think he was one of the pioneers in the City of Toronto in heart surgery to correct defects in newborn babies and young children.

The Ontario Medical Association recently had the privilege of conferring an honorary degree on Dr. Wilfred Gordon Bigelow of Toronto in special recognition of his eminent success in the surgical correction of cardiac defects in infants and children who are born with these defects. That applies to Dr. Murray as well. It is remarkable that there are many devoted members of the medical and surgical division of our profession in university centres and in other cities as well who accomplish almost miraculous results in the field of rehabilitation and prosthesis. I would also like to mention Dr. Gingras of Montreal. It is fantastic what that man is doing in rehabilitating thalidomide babies and other children born with congenital defects. As you know, there are many others. There is the David Cardiac Clinic in Montreal and there are clinics in Toronto, Hamilton, Winnipeg and Vancouver. All the provinces are doing wonderful work.

This the thing that gets me, Mr. Chairman and ladies and gentlemen. Are we expected to have 100 per cent perfection in our children and ourselves? None of us are perfect. I am sure everyone of us have some physical defect of some sort. Many of us have defects of mentality and intellect which are probably minor, but at the same time we are not perfect. If we are going to try to bring about a perfect race, such as some people seem to have an idea we should, I think it is going to take an awful lot of ingenuity and challenge on the part of the adults and the professional people to correct deformities, although the satisfaction that must come to not only the doctors but also the public at large cannot be estimated.

There is another thing that disturbs me very much about the medical profession. This is something that, as a doctor of almost 50 years' practice, I cannot quite understand. A year or two ago there was a strike in Peterborough and some of the strikers disobeyed an injunction, or something like that, and they were brought to court. They broke the law, there is no doubt about it, and they were sent to prison. Yet here we have a doctor who is reported in the *Montreal Gazette* of May, 25, 1967, as saying:

One London obstetrician admitted "all the abortions we do may be illegal," but he added: "we do not care. We are not worried about the law."

I think the big trouble with society today, ladies and gentlemen, is that we are not worried about the law. Too many people are taking the law upon themselves. Why should a profession which has the highest ideals, with the possible exception of the religious profession, be brought down so low that they show such a poor example to the rest of the community?

We have with reason emphatically objected to a government which has dared to interfere with the economic aspect of our profession. But think well, fellow doctors, that by this resolution on therapeutic abortion we are requesting of the same government a license to kill unborn babies. I pleaded with them. Remember, the unfortunate part, Mr. Chairman, is that my talk was all in French and 99 per cent of the members did not understand French. I made the plea, "Do not destroy our image, so glorious and human". Drs. Adams and Ford have already expressed many points of argument against abortions,

with which I am heartily in agreement. My big point today is that if such a law becomes a fact you will take away some of the aura, the prestige and the human respect from the medical profession. Thank you.

**The Chairman:** Thank you, Dr. Tallon. The meeting is now open for questioning. Mr. O'Keefe.

**Mr. O'Keefe:** Dr. Ford, Dr. Adams and Dr. Tallon, may I congratulate and commend you on the brief. It was refreshing and encouraging, to me at least to hear Canadian doctors express interest in the rights of the unborn and concern that they be allowed what seems to me to be the fundamental right to life.

Dr. Adams, several witnesses have indicated that in this matter of abortion they place their faith in doctors. What do you as a doctor think about being considered the final judge, and I stress the word "final"?

**Dr. Adams:** I am not quite sure if I understand your question. In fact, when abortions are performed the doctors are the ones who are best able to judge the patient's condition and the possible condition of the unborn foetus about the doctor deciding who will or who will not live and I am sure that others who are not directly in the medical profession are less able to do so. Is this what you are asking?

• (12:10 p.m.)

**Mr. O'Keefe:** Yes, generally; but I am wondering how you feel about the proposed shift in responsibility from the law to, in this case, the medical profession.

**Dr. Adams:** As you know, I am against the proposed changes; and I am basically against the performance of therapeutic abortions when they are in fact performed as they are now, generally under the jurisdiction, shall we say, of an all-medical board who are presumably in a better position to judge than are, as has been suggested, social workers and lawyers and other members of the community; although, as a total I am against therapeutic abortion.

**Mr. O'Keefe:** Thank you; I agree with you. It seems to me that many of the statistics and the medical opinion heard here has been from what I think you could call secondary sources, such as newspapers and magazines. Do you, as professional people, think that we as a Committee have done sufficient research into medical and social consequences in

countries where abortion is now fairly common? Do you think we have done enough research as a Committee?

**Dr. Adams:** I am sure that there is a good deal of information that could be gleaned from publications from these areas which would be of benefit to this Committee. It does seem that many of us who are present before these committees are not sufficiently aware of the findings in these different areas where abortions have been performed. Dr. Ford did touch upon the Japanese experience, and we all have read of certain areas of experience, such as Colorado, where the more recent laws have been instituted. There, in the first three months for instance—and again this is unofficial—25 abortions were performed, and most of these were on psychiatric grounds, even in a case of supposed rape. But here again we are not on firm ground, and I am afraid we are all speaking more on pseudo authorities—people who have experiences but not absolute statistics.

**Mr. O'Keefe:** Doctor, what evidence can you give us in support of your fear that what we might call a lax law might rebound against progress in medical science in this area?

**Dr. Adams:** Are you referring to the present law or the proposed law?

**Mr. O'Keefe:** The proposed law.

**Dr. Adams:** There are several proposed laws but all of them are in the direction of considerable laxity in indications for performance of abortion. Some of these proposed laws may appear to just legalize the present indications for abortion as they are performed in the major hospitals. But as was mentioned under the clause of impairment of physical or mental health, this can be interpreted very widely and in fact, as this law is used more and more, it appears apparent that there will be great widening of indications for abortion, and that it may lead to abortion not on request but at least for greatly widened social and family reasons not concerned at all with the medical condition either of the woman or of her unborn foetus.

**Mr. O'Keefe:** Doctor, I would like to ask you about a quotation from a doctor who champions abortion. He is an American doctor, and I will not give his name. He said:

"I have never permitted myself the moral evasion of the tissue argument; I

know I am destroying human life every time I recommend an abortion. I maintain that the appalling social failure of organized society, and of the churches, to assert and defend the rights of the poor leave me no alternative but to recommend the destruction of unborn children."

Doctor, my question is: what do you, as a doctor, think about this other doctor's remark "I know I am destroying human life every time I recommend an abortion"?

**Dr. Adams:** Well, when he admits this, there is no alternative but to realize the enormity of the act that he is performing.

**Mr. O'Keefe:** Would you personally, Dr. Adams, along with this other doctor, hold the tissue argument—you know what I mean by the tissue argument—to be moral evasion on the part of the doctor?

**Dr. Adams:** Some doctors do consider that the unborn is simply tissue; but most well-informed medical people realize from their basic understanding of embryology and development of the zygote embryo and then the foetus, that this is not simply tissue as part of the mother, but is in fact an individual living organism from the time of conception; that is, as has been mentioned, from the time of the uniting of the ovum and the sperm, a separate individual organism that is growing, and not an appendage of the mother herself.

**Mr. O'Keefe:** Just one more question, Mr. Chairman. Dr. Adams, I am told that a team of surgeons at the Cleveland Clinic Foundation recently developed an artificial placenta which can add oxygen to blood and remove carbon dioxide from it. They hope it will save the lives of premature babies with lung problems, but it also suggests possibilities for saving babies so young their lungs have not yet been developed. Can you tell us anything about this or other scientific advances pointing to an even earlier viability of foetuses?

**Dr. Adams:** No, I do not know directly of the details of this work, but only the statement that it is at an early state of development. The premature baby when born is unable to exist as an individual outside the mother, because, as you mentioned, the lungs are not fully developed and therefore it is unable to carry out oxygen exchange between the external air and its blood. Therefore, they have formed an artificial organ which presumably can be attached to its umbilical cord to exchange oxygen and

other nutrients for the baby when it is born very prematurely. In fact, pediatricians are working in this direction all the time, so that a baby that has been born at a stage when its life would have been unable to be carried forward as an independent organism will in the future be able to be carried forth. In other words, independent life can be carried on at an earlier and earlier stage due to this and other efforts of pediatricians and allied scientists working in the field.

**Mr. O'Keefe:** Thank you, doctor; and thank you, Mr. Chairman.

**The Chairman:** Dr. Brand.

**Mr. Brand:** Thank you, Mr. Chairman. Dr. Adams, I believe you made the statement that you are against therapeutic abortion of any kind?

**Dr. Adams:** Yes.

**Mr. Brand:** This means that if there was a fair degree of certainty that the mother would die if a therapeutic abortion was not performed, you would still not agree with it, is that right?

**Dr. Adams:** As a practising Catholic, I would not perform a direct abortion for any reason whatsoever. As a matter of fact, there is in the law at the present time permission for any doctor, where the mother's life is in danger, to perform legally an abortion to save the mother's life. We are not trying to change this law, although I, as an individual Catholic, would not perform an abortion for this reason.

**Mr. Brand:** But you did make reference, however, to the other doctor who would be aware of the enormity of the act he was performing—I think those are the words you used. If this mother died, would you then be aware of the enormity of the act which you had just performed?

• (12:20 p.m.)

**Dr. Adams:** I would not have performed an enormous act. I would do everything possible to save the mother's life. In fact, this is an old argument, as you know, which was generally discarded about thirty or forty years ago because of the advances in medical science. There are very, very, very few cases now where a mother has to be allowed to die because her baby is not in fact killed.

**Mr. Brand:** Have you ever done any surgery, Doctor?

**Dr. Adams:** I am a gynaecologist.

**Mr. Brand:** How about tubal abortions, or tubal pregnancies?

**Dr. Adams:** We are not discussing tubal pregnancies.

**Mr. Brand:** I think we are.

**Mr. Adams:** No, we are not.

**Mr. Brand:** We are discussing matters, Doctor, of human life as such. If you had a living foetus in a tube—and you know this is possible—would you agree with that?

**Dr. Adams:** Yes, but we are talking about direct therapeutic abortion, not about performing an operation on a mother to remove a diseased organ in which indirectly the embryo will die if in fact it is still alive. When a tubal pregnancy occurs either the embryo has died because of the haemorrhage that has occurred or it would shortly die, together with the mother. One is allowed and this is not a direct therapeutic abortion. This is removing a diseased organ in which indirectly, with the diseased tissue, the embryo is removed. This is not involved in the law at all and this is entirely beside the point.

**Mr. Brand:** I was merely getting back to the living foetus—where you draw the line. This is the point. Whether it is living. If you diagnosed one prior to rupture of the tubal abortion or the tubal pregnancy, you would then leave it, I presume, to rupture.

**Dr. Adams:** No. This is in fact threatening the mother's life because it is lodged in an area where it is scientifically known that there is a 100 per cent—practically as close as one can say—chance that this tube will either rupture or...

**Mr. Brand:** Now you are getting to exactly the point I want to bring up. Do you not believe there are any other circumstances where there is a chance like this where the mother's life would be threatened and as a result of her death the foetus would also die?

**Dr. Adams:** There are other instances where the foetus can be removed together with diseased organs such as in a case of cancer of the cervix. This is not a direct therapeutic abortion, which is what this law is about. This law is not about indirect abortions in limited form.

**Mr. Brand:** It is still destroying the life of the foetus, is it not?

**Dr. Adams:** Yes, it is; but it is not directly destroying the foetus.

**Mr. Brand:** All I am getting at is that you do believe there is a point where you can draw a line.

**Dr. Adams:** Yes, for everybody there is a point and this is indirect.

**Mr. Brand:** I would like to ask Dr. Ford a couple of questions, Mr. Chairman. I must say I think Dr. Ford in his testimony illustrated one of the problems we have with psychiatry—understanding what they say. I take it, Dr. Ford, you do not believe in psychiatric grounds for abortion.

**Dr. Ford:** That is correct.

**Mr. Brand:** Do you agree that the majority of your peers in psychiatry would agree with this view?

**Dr. Ford:** The majority would not agree with this view.

**Mr. Brand:** Do you believe you are right and they are wrong?

**Dr. Ford:** Yes.

**Mr. Brand:** Everybody is out of step but my Charlie.

**Dr. Ford:** I would not put it quite like that; I think I am right.

**Mr. Brand:** In a case, for example, of an endogenous depression—that is the wrong term; I should say perhaps a reactive depression—occurring where there is a distinct possibility of suicide, do you not believe that there is a possibility that if it was agreed that an abortion would help this matter there would be valid grounds for terminating the pregnancy in this case?

**Dr. Ford:** No, I think that is entirely the wrong approach. We can treat both endogenous and reactive depressions fairly successfully—I would say very successfully—these days. I believe the correct approach to such a problem would be simply to treat the condition, but not to terminate the pregnancy.

**Mr. Brand:** You do not believe there are any psychiatric indications at this time that would justify a therapeutic abortion?

**Dr. Ford:** No, I do not believe there are psychiatric grounds for therapeutic abortion, period. I think the psychiatrist's job is to treat the condition. The condition in the cases you have mentioned is one of depressive illness, presumably reactive or endogenous depression. This is clearly where his duty

lies. As it happens we can treat these conditions and get people better from them. There is not any need to terminate the pregnancy.

**Mr. Brand:** You quote a lot of statistics from obstetricians and gynaecologists. Do you have any from psychiatrists?

**Dr. Ford:** A good many of my quotations are in fact from psychiatrists.

**Mr. Brand:** I did not get that impression. I am sorry. Dr. Adams did mention that there was a lot of information available. I wonder, if he is aware of any of this, if he could make it available to the Committee.

**Dr. Adams:** Dr. Ford has a bibliography of those whom he has quoted. I have numerous authors whom I have consulted and if you would care to see them you are welcome to do so. I made a broad statement in that I have perused the literature and I cannot see any place where physical health of the mother is best treated by a therapeutic abortion. This is a pretty wide statement and it does not require one person to be quoted in this regard.

**Mr. Brand:** Are you familiar with the recent study done in Hungary—and unfortunately I did not bring it with me—of the results of therapeutic abortions on pregnant women and on subsequent pregnancies? Are you familiar with this recent study?

**Dr. Adams:** I am not aware of this particular one. I do know there are studies that have been made and many of them have not shown that . . .

**Mr. Brand:** This is a most startling one and that is why I wondered if you were familiar with it. I intend, Mr. Chairman, to bring this before the Committee because of the significance of the study itself.

To Dr. Tallon, may I say I appreciate his sincerity very much. I just wonder, since he mentioned he bowed to the will of the majority regarding the senior membership in the CMA, whether he is bowing to the will of the majority regarding abortion?

**Dr. Tallon:** No, sir.

**Mr. Brand:** There seems to be a subtle difference, does there?

**Dr. Tallon:** There is a quite evident difference, do you not think so? It must be quite evident to you, sir, that there is quite a difference between . . .

**Mr. Brand:** Oh, it is quite evident to me, I assure you.

That is all; I have no more questions.

**Mr. Enns:** There is so much of the evidence with which I would like to quarrel, gentlemen or disagree perhaps would be a more courteous term—but it seems to me the weight of your argument is weakened substantially by the fact that you moved from a wrong premise and that you assume simply that this state will somehow attain the power to decide on human life and who shall live and who shall not. On pages 4 and 5 of your brief, you say:

Thus once an abortion of any form is legalized, the State could move very rapidly into the direction of having the power to decide who is to be born and who is not;

With this kind of argument I feel that your evidence is substantially weakened and that you somehow relate to the problems of genocide in Germany. In fact, abortions were so far removed from that situation that in 1943 there was an even further penalty to the point of capital punishment against persons committing abortions. I find this is completely disconnected and that is why I say to you that you have weakened the weight of your argument by this wrong premise. Then to go on from there more specifically, you speak of the advance of medicine that has been encouraged and heightened by the handicapped and the deformed. Our abortion laws have been based largely on what happened in 1861, which is more than 100 years ago. You speak of medical advance but you do not wish to see any legal advance or any other advance in the morals field. Is this what you are prepared to live with? You do not want the law to be updated.

• (12:30 p.m.)

**Dr. Adams:** Personally, I do not feel that this change is an advance. We do feel that medical science has advanced during the hundred years, and a good deal of this advance has been due to saving mothers who have had defects, such as heart disease and tuberculosis, and by not aborting them. These are just two advances that I mention where, if abortions had been performed more freely, we would not have gained the knowledge that we now have. I am not, of course, against advances in the laws of our land. I just do not feel that this particular change is an actual advance.

**Mr. Enns:** Surely the adoption of a change which would make our abortion laws more

lenient would not, *ipso facto*, eliminate further deformities? It would still be an optional thing. The mother and the doctors and the abortion committee would decide on an application. There is no onus on all pregnant mothers to come before a board for a decision whether or not they should have a child. This is really the greatest error in the whole argument. There will be very few who will, in fact, apply for abortion.

My other question is: Do you recognize that illegal abortions are a social problem in our country?

**Dr. Adams:** Certainly there are many illegal abortions. This is an unfortunate thing. Many crimes occur in our country that are unfortunate, but by legalizing them we do not make the performance of the act any better.

**Mr. Enns:** You speak of the rights of the unborn—the rights of children. Among these rights do you not recognize the right to be loved, the right to be wanted, the right to security and the right to self-fulfillment and development? In our society, with so many social agencies catering to unwanted children, across the land, where these rights are, in fact, severely restricted, are you always sure that this is not what you are bringing into the world when you counsel a woman with an unwanted pregnancy?

**Dr. Adams:** Are you in fact suggesting that these proposed changes should be such that in all unwanted pregnancies, where the child will possibly be mistreated, these women can have an abortion?

**Mr. Enns:** No; I am just pointing out that there are many rights of children that even now we are not sufficiently safeguarding. I am not so sure that by the introduction of further unwanted children we are not adding to the load on society.

For example, you are aware of the battered child syndrome. This is quite serious, is it not? You have dealt with these kinds of situations. Is it not on our conscience collectively, as a society?

**Dr. Adams:** I am sure it is; but I do not think a change in the abortion laws is going to make a distinctive difference in that regard.

As I have just mentioned, I do not think all these women would have been aborted during their pregnancy; even under this wide

law they would not in many cases have had the basis for an abortion.

Regardless of that, it is up to society to provide better homes. This is not something that we are going to do overnight, but we should work towards it rather than kill the foetus prior to delivery.

**The Chairman:** Have you finished, Mr. Enns?

**Mr. Enns:** Thank you, yes.

**The Chairman:** Mr. Allmand?

**Mr. Allmand:** Dr. Adams, even if we were to accept all the reasons for the opinion that you and other doctors have given that abortion is not an acceptable act, does this mean that abortion should be forbidden under the Criminal Code, especially if a large percentage of doctors have a different philosophy and there is no national consensus in the country in favour of the law, or the will on the part of law officers and judges to enforce the law? In other words, there are many acts that we do not consider acceptable but we do not insist that they be criminal. We combat them in the area of public opinion. For example, we do not consider adultery to be an acceptable act, but we do not make it a crime, even although in previous ages it was crime under some jurisdictions. In the absence of a consensus in favour of a law, or of a consensus in the enforcement of it, does not the law fall into general disrepute, and should we not, therefore, combat these things that are not necessarily acceptable to all people in ways other than through the criminal law?

**Dr. Adams:** I disagree with that premise. The performance of abortion is an infringement upon human rights—the human rights of an individual who has no say in the matter whatsoever. As such, it is up to us, as responsible members of the community, to ensure that these acts be not performed.

The performance of adultery, although immoral, is not something that in fact directly affects the remainder of society. In fact, I do not believe that there are any laws on the books either for or against adultery; whereas we have found it necessary to make statements in Parliament on the performance of abortion. This relates to human rights. It is an entirely separate field from that of adultery, I feel, and is a concern of all of us.

**Mr. Allmand:** There has been mention of laws which protect, or give rights to, unborn

children, or to foetuses. Under various coroners acts, if a person dies in unusual circumstances there is supposed to be a coroner's inquest. I am not a doctor, and I am probably not using the proper terms, but if there is a natural abortion, or a miscarriage, do you know if the coroners acts of any of the provinces provide for investigation of it? My point is that it is very difficult, and it will become more and more so, in the early stages—the first and second month—to distinguish between a miscarriage and an illegal abortion, especially if pills and other things are going to be used to cause abortion.

**Dr. Adams:** I agree with you; it is certainly more difficult. As far as I know, in no province—certainly not in Manitoba—is there any reference to the coroner being involved in a case where a spontaneous or incomplete abortion in fact occurs. This is quite a common occurrence in most of our hospitals.

As you probably know, statistically, about 10 per cent of all pregnancies do end in spontaneous abortion. This is a statistical, known fact. This has also often been shown to be related to genetic changes in the embryo or conceptus during its development; and, in fact, these abortuses were developing along the wrong course and were lost. There would be no reason for the coroner to be involved at all.

**Mr. Allmand:** But you do agree that it has become very difficult, and will become more so, to distinguish, in the early stages, between illegal and natural abortion and that therefore, the law might become very difficult to enforce. It could very well become almost a private matter in the early stages, even though it may be morally wrong. But to make it a crime might become almost impossible. This seems to be so at the moment, in view of the matters that Mr. Enns raised.

**Dr. Adams:** It is, in fact, difficult to detect all cases of criminal abortion. We know this as a fact. Generally the statistics are not quoted, but we do know that criminal abortions are occurring, and with quite considerable frequency. As I mentioned earlier, it does not mean that we should make them legal.

The other question you raised was whether or not most abortions are, in fact, criminal. In the larger centres the majority of patients with spontaneous abortions go to a major hospital and are seen there by their attending physician and other members of the staff. Generally, it would be difficult for someone

to perform a therapeutic abortion in our major hospitals under the guise of its being a spontaneous abortion.

**The Chairman:** Mr. Knowles.

**Mr. Knowles:** Mr. Chairman, although I may not agree with the position taken by the doctors who have been before us today I think I will be expressing the view of members of the Committee when I say that they have made an excellent case, and made it very firmly. There is no doubt in our minds where you gentlemen stand; and I do not quarrel with Dr. Ford's answering somebody over here by saying that he thinks he is right. There are times when I think I am right, too, on, let us say, other issues.

• (12:40 p.m.)

Most of the questions that might be asked have been put to you, but there are one or two that I have. I take it, since all of you have referred so often to therapeutic abortions, that even though you would not countenance them yourselves, that is, you would not professionally perform them, you do accept the fact in our society of some abortions taking place. I would like to know how you square this with your seemingly absolute position in your brief, in which you insist that any bit of fertilized protoplasm has in it the ingredients of human life and therefore should not, in any circumstances, be aborted.

**Dr. Adams:** Yes; A direct therapeutic abortion is what we are discussing. These, as you mentioned, do occur, and are performed in some of major hospitals in our own city, and in others across the country. I, in fact, with my own outlook upon this act, do not take any part in it, and I am not involved in any way.

I know that they do occur, and I feel that those who are performing them are doing so with what they consider good conscience and for what they consider are good medical reasons, although I disagree with them. For this reason I certainly would not like to see our present law widened, as has been suggested, because in fact those that are performed now are on bases with which I generally disagree.

**Mr. Knowles:** In other words, as you have said several times, you are not asking that the law be changed to make no abortions possible; you are prepared to let the law stand; and in so doing you are admitting—is it not fair for me to say this—that it is a question of where the line is drawn?

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**Dr. Adams:** Yes; although I disagree with the performance of abortion for any reason, we are not trying to change the law as it stands now; but we certainly do not want it widened.

**Mr. Knowles:** If this question is unfair do not hesitate to refuse to answer it. You have made it clear that you, personally, are opposed to performing, or agreeing to, abortion. Are there instances where Catholic doctors do perform abortions? As I say, if that is unfair do not answer it.

**Dr. Adams:** Although a practising Catholic, according to his religious beliefs, would not perform a direct therapeutic abortion under any circumstances, this is not to say that there may not be somewhere a Catholic who has performed an abortion.

**Mr. Knowles:** Do they take place in the Misericordia Hospital, or the St. Boniface Hospital?

**Dr. Adams:** No, they do not; they are against the regulations of these two hospitals. Any Catholic on the staff, as I was at one time, of another major hospital in the city, is not required to perform or assist in an abortion in the other major hospitals in the city unless it should endanger the patient's life. You cannot walk out during an operation.

**Mr. Knowles:** In other words—and I am not arguing with you; I am ascertaining your position; and your own personal position is absolute—you admit that for society it is a question of where the line is drawn?

**Dr. Adams:** That is true, yes.

**Mr. Knowles:** There have been references already to the question of illegal abortion, and I noted your statement that you did not think the answer to illegal abortions was to legalize them. However, as a doctor, and as a humanitarian, you must be concerned about the large number of women in our country who do undergo illegal, backroom abortions and whose lives are in danger. Some of these must come to your hospitals afterwards. What is your answer to the problem?

**Dr. Adams:** Well, there are two answers. One is that it has been shown in other countries that widening the law, as is proposed, does not lessen the performance of illegal abortions in any way unless you allow abortions purely upon demand. This has been shown, and it has been confirmed by numerous authors that this is in fact so.

There are several methods of preventing the performance of illegal abortions, of course. One is to enforce the law more strongly than is the case now. There is a tendency to look the other way when this is performed. The other is that these women who feel it is their right to do so, should not become pregnant. In fact, they should have avoided this pregnancy's having occurred in the first place if they feel that they cannot carry on with it.

**Mr. Knowles:** Perhaps I should follow that up with a question about contraception.

**Dr. Adams:** We are not discussing contraception at the present time, although I believe this Committee has sat on this question. I, as a practising Catholic, do not use many of the methods of contraception that are, in fact, permitted, or will presumably be permitted in the future. This, however, is altogether different from abortion, and as a member of the Community Welfare Planning Council in Winnipeg I, in fact, signed the petition for a change in the contraceptive laws of Canada. This is a totally different situation from abortion, which infringes upon human existence.

**Mr. Knowles:** Yes, I grant that. But as you probably know, if you have followed the proceedings of this Committee, a number of those who have appeared before us have been against abortion and have said that they thought the answer was to improve the laws so as to prevent many of these unwanted conceptions.

I note your concern about backroom abortions and the suffering that is involved. I find it difficult to feel that tightening the law would do away with them. I have the feeling that the suffering these people would go through would be even worse, and that the people who would perform them would be even less skilled—if I can use that word as applying to them.

I should not ask this next question because I know the answer. You do not like the idea, for example, as it is now planned in Britain, of abortions being under control by committees that decide, and being performed under the best conditions in proper hospitals?

**Dr. Adams:** No, I do not like the law as it was introduced in Britain.

**Mr. Knowles:** I have just one other question for Dr. Ford. First, doctor, may I say that I enjoyed very much your definition of psychiatry. It had a Churchillian touch as I

noted it—so little is known about so much. Before anybody taunts me with it, may I say that perhaps that is the definition that some people would apply to politics as well.

**Mr. Cowan:** Surely not.

**Mr. Knowles:** Dr. Ford, I really have two questions for you. First of all, you made a reference to "less fortunate sisters", and you talked about the white, affluent, educated woman being able to get the abortion which her less fortunate sister was not able to get. I suppose that by "less fortunate" you meant less affluent?

**Dr. Ford:** I was being a little bit facetious.

**Mr. Knowles:** But is it not a serious matter?

**Dr. Ford:** Oh yes, of course.

**Mr. Knowles:** As the law now stands the woman with the money can get it, whereas the woman without money either cannot get it or resorts to more dangerous methods.

• (12:50 p.m.)

**Dr. Ford:** I think this is the trend.

**Mr. Knowles:** Are you are concerned about this discrimination in terms of wealth?

**Dr. Ford:** This is not quite the point I was trying to make, of course. I was trying to show from the figures available to me that there tended to be a social disparity in therapeutic abortions. After all, if abortions are being performed on strictly medical grounds, there is no reason why there should be any disparity at all that I can think of. The figures should be the same for both groups. The implication seems to be that people who are better off and better educated are more likely to have a therapeutic abortion. In a New York study it was brought out that a white is more likely to have one. Of course I am concerned about the fact that, as I put it, the less fortunate sister might have to resort to other methods, illegal abortion presumably. But at the same time I would still not feel that a broadening of the legislation to incorporate everyone, as it were, to make abortion free to everyone, was justified.

**Mr. Knowles:** There is no doubt that your position is tenable and you certainly have stated it very clearly. I would just like to make the point that this is the kind of problem that hits us and we feel we have to do something about it. If we feel that we have to move the line I hope you will recognize

the sincerity of our approach, such as we recognize yours.

There is just one other thing I would like to say to you Dr. Ford and again I hope you do not mind my putting it this way. I listened with interest to your paper and like Dr. Brand I had a little difficulty understanding some of the terms, but I gathered this feeling as I listened to it. I know that there are many women doctors, but most doctors are men. I know that there are women legislators—we had two here for a while—but most of us who make the laws are men. Will you understand my feeling that in your presentation it seemed to be a case of us men saying to women: "Your psychiatric ideas, your notions cannot be taken into consideration. We are going to decide as doctors and as legislators that if you get pregnant you are going to have the baby".

I would like to say something to Dr. Adams, that was an interesting story he told about speaking to a fellow doctor who has a thalidomide baby. Mrs. MacInnis who was sitting beside me at the time said: "I wonder if he asked the wife." Perhaps this sounds facetious, but I wonder if this is a point we have to look at. It is a man's world; we men are making the laws and we men are doing most of the medical practice.

**An hon. Member:** Do your homework after school this afternoon.

**Mr. Knowles:** Oh, I started with that admission if you remember. There are women doctors and there are women legislators, but generally speaking it seems to me this is a little more of a woman's problem than a man's. Men are responsible, but we will not get into that. I think the position of women should be given a bit more consideration than I felt was in your paper, but otherwise I thought it was very interesting.

**Mr. O'Keefe:** There are woman doctors also.

**Dr. Ford:** Strictly speaking, I think the statements I made should not relate to the fact that I am a man making these statements. I am making these statements mainly as a Catholic psychiatrist. I would hope, in fact, that a Catholic woman psychiatrist could make similar statements. I do not know the answer to the fact that women are not represented in politics to the same extent as men.

**Mr. O'Keefe:** It is true too that the more money you have, the more power you have in any area.

**Mr. Stanbury:** Women should have a lot of power then.

**Mr. O'Keefe:** They have, there is no question about that.

**Mr. Knowles:** There was one question Mr. O'Keefe asked of one of the doctors and I was glad that he did not answer it. I do not blame Mr. O'Keefe for asking it, but he asked whether doctors were not guilty of moral evasion in certain cases. I was glad the doctor did not answer that, because it seems to me this is a matter of opinion; what your opinion of morality and what mine is, is a matter of individual conscience is it not?

**Mr. O'Keefe:** Perhaps I should not have said "moral". Perhaps I should just have said "evasion."

**The Chairman:** Dr. Adams, do you have any comment on Mr. Knowles' last question?

**Dr. Adams:** Well, it has been generally answered. There is just one thing: in discussing with my doctor friend the thalidomide influenced baby, I was given some pictures the other day of this baby by both the mother and the father who show considerable love for and attention to this baby. It has been a heartbreak to both of them, I am sure, but in fact the child has love and attention from both. I am sure the sentiments are expressed by the two of them.

**Mr. Knowles:** Thank you.

**The Chairman:** Mr. Stanbury, you are next.

**Mr. Stanbury:** Mr. Chairman, these witnesses have put their case, as Mr. Knowles has said, very clearly and forcefully and very consistently, I think, based on the premise they start out from, that the foetus is a human being. I just want to be sure I understand several points clearly.

I believe your position is that the law at present should not be extended, but enforced. It is your personal opinion, as you say on page 5 of your brief that:

... abortion is a direct attack on human life and should be considered as both immoral and criminal.

In saying that, that is your opinion about all abortions. So, in your opinion the action of

your medical colleagues in performing abortion for any reason is both immoral and criminal?

**Dr. Adams:** The performance, in my opinion, of a direct therapeutic abortion is immoral, but under the present law it is not criminal when it is done to save the mother's life.

**Mr. Stanbury:** I suppose a fairer way of putting it is that you feel if you had your way it should be criminal?

**Dr. Adams:** We are not trying to change the law in that direction, but in fact if I had the ability to change it, I probably would work in that direction.

**Mr. Stanbury:** But based on the statement in your brief, I gather it is your opinion that the action of any doctor in performing an abortion is both immoral and, in your opinion if not in law, criminal. That is quite an indictment of your colleagues and your profession. I think, though, perhaps your indictment goes further, because if you believe that, and if you believe the present law should not be extended, but enforced, what do you say about those doctors who perform abortions that are clearly not provided for in the present law? We had evidence before us from the Canadian Medical Association representatives that in fact many abortions performed with the approval of therapeutic abortion committees in hospitals go considerably beyond the grounds that are now provided for in the Criminal Code.

**Dr. Adams:** To me, these would be performances of immoral acts. It is up to the law to judge whether, in fact, they are illegal.

**Mr. Stanbury:** Well, all abortions are immoral acts in your opinion, but you have said that you believe the law should be enforced as it is. I take it from that you believe your colleagues should be prosecuted for abortions that are not within the terms of the present law.

**Dr. Adams:** I think the law should be judged as to what it states and it is up to the legal profession to decide whether or not a prosecution should, in fact, be carried out.

**Mr. Stanbury:** The representatives of the Canadian Bar Association acknowledged, and I think you acknowledged today as is generally acknowledged, that the present law permits an abortion only where the life of the mother is seriously threatened. And if it is

acknowledged, as your colleagues did who were here, that many abortions performed today in hospitals are not for that purpose but for wider purposes, I take it you feel the law should be enforced and those people should be prosecuted.

• (1:00 p.m.)

**Dr. Adams:** As I said before it is up to the legal profession to decide whether they should be prosecuted but, in fact, they are acting against the law and I disagree with the performance of these abortions. For a woman who has had rubella and has some chance of a deformed child—and it is not 100 percent remember that; it is not even the 84 percent quoted here before—to me it is an immoral act. There is only some chance that this is a congenitively abnormal foetus and subsequent child, and to me it is immoral to abort this woman.

**Mr. Allmand:** Sir, in our Criminal Code there is a duty on all citizens to report violations of the law where they see them. If you know of these violations of the law you should report them because would you not report a murder that you knew had taken place, or if a parent were abusing a child which is a crime under the Criminal Code? Would you not report that?

A lot of doctors who do not think they support abortion do not report these cases as I said before; there is no consensus that this really should be a crime because if you put it in the same area as these other crimes you would report it. Probably your confreres abort and you are not reporting them, although you said you believe they should be prosecuted; but you would not report them yourself and prosecute.

If I know that my colleague beside me has committed a crime I have a duty to lay a charge, to go down to the police station and see that a criminal charge is brought against him.

**Dr. Adams:** You are suggesting the citizen's arrest, more or less, enter into it.

**Mr. Allmand:** No, no, no; reporting the crime to the police station and seeing that a charge is laid.

**Dr. Adams:** I think this no doubt falls upon the entire community, not upon me as an individual.

**The Chairman:** Perhaps it falls on the law practitioners just as much, if not more.

**Mr. Allmand:** It does, of course, if we know about it, but it would seem to me that

doctors who are in hospitals probably have more information about those doctors who are actually breaking the law in their opinion, and if they believe strongly that the law should be enforced they are the ones who should report them. I have never had any personal knowledge as a lawyer of a doctor doing this.

**Mr. Stanbury:** I think the doctor would probably like to have an opportunity to answer that question. I would like to hear the answer.

**Dr. Adams:** Obviously, I have not taken it upon myself to report any of these abortions which are, in fact, against the law and as is remarked it is not only my duty but that of the legal profession or any other citizen, if they feel the responsibility is upon them, to take the necessary action. One would have to know very well where he stood with regard to his legal status and the evidence that could be collected. Certainly it is not something one might undertake lightly.

**Mr. Stanbury:** Perhaps you can plead that you have no personal knowledge of any such cases of abortion for the preservation of the health of the mother or for some social reasons which actually have been performed in hospitals.

**Dr. Adams:** I cannot plead complete innocence, although I have not had occasion to investigate in detail any one particular case where I could present details in a way that would lead to prosecution.

**Mr. Stanbury:** I am not clear, I am afraid. I am not clear now whether or not you feel that the present law should be strictly enforced and we should seek out those law-breakers among the medical profession who have been performing abortions with the approval of therapeutic abortion committees in hospitals, or whether you think those should be permitted by the law even though they do not conform with your moral judgment.

**Dr. Adams:** We are getting a little off the subject, but in my opinion the law should at least stand as it is and not be widened. In cases of illegal abortions where there is sufficient evidence, naturally there should be a prosecution. As we know it is very difficult to get a criminal prosecution and commitment of a person who has, in fact, performed a criminal abortion. I think this has been a good deal of the problem in the past.

**Mr. Stanbury:** I do not think we have had any evidence of anyone attempting to prosecute doctors who have performed abortions in hospitals.

**Dr. Adams:** Not in this country. In England I believe there was Rex versus Bourne which was more or less intentional.

**Mr. Stanbury:** I am sorry if I seem to be straying. I am trying to understand your reasoning sufficiently to attach the proper importance to it in my own thinking. As I understand it then, you believe the present law is adequate; you would not even have passed such a law had you had the choice because you believe all abortion is both immoral and criminal.

**Dr. Adams:** That is right.

**Mr. Stanbury:** And wherever any breach of the present Criminal Code provision that permits abortion where the mother's life is threatened occurs, the Code should be strictly enforced and doctors prosecuted.

**Dr. Adams:** All those who breach the law should be prosecuted.

**Mr. Stanbury:** Thank you.

**Dr. Tallon:** Mr. Chairman may I say a few words?

**The Chairman:** Yes, Dr. Tallon.

**Dr. Tallon:** Dr. Brand asked me a question a few moments ago. Probably you are too young to remember the comic strip of Stinky Davis? Stinky Davis was a chap, you know, who said, if you do not play my way, I will not play your way; I will not play at all. Well, the Canadian Medical Association and I am sure you are a member—through its societies and its branches in the provinces, is the most wonderful association in the world. I think the world will always be grateful to the advances of medicine and the high standard of medical care that our country has through that Association and, therefore, the many, many things that they have done far outweigh the things that they might pass that I do not agree with. But that does not say I am not going to play with the Medical Association.

Now, secondly, I think it is wonderful and I know that you do too, they have collected—Mr. Stanfield, is it?

**An hon. Member:** Stanbury.

**Mr. Stanbury:** I do not know whether I should take that as a reflection on my character or as a compliment.

**Dr. Tallon:** No, I think it is a compliment.

**Mr. Stanbury:** From you I suspect it is, you seem to have rather conservative views.

**Dr. Tallon:** Anyway, coming to statistics and referring to german measles alone, the statistics show definitely that 58 percent of all babies born to mothers who have german measles in the first few weeks of pregnancy will be normal and healthy in every respect; 48 percent of them will have some defect of brain or members, cataracts, heart defects or things like that, and yet of that 48 percent, while some quote only one percent, my figures show that probably 18 percent of them can be helped and made useful members of society. Therefore, by accepting the suggested change in the Act we would sacrifice 76 good, healthy babies who would make good citizens for the sake of a few babies who might be deformed and require care by this country.

• (1:10 p.m.)

Coming to Mr. Knowles, he asked about contraception, although it is not the subject here. At a meeting in Winnipeg two or three years ago the Canadian Medical Association passed a resolution asking the federal government to do away with the law making it illegal to sell or advertise contraceptive devices. I remember I spoke on that and said it was a silly and nonsensical law in the first place and it should never have been on the statute books.

Contraception is another story. As you know, the pronouncement has come from Rome that any artificial means of preventing conception are forbidden. As far as my conscience is concerned the pill, as we call it, is a natural means. It is not an artificial means and, therefore, I think it is up to our conscience to do as we please about it. I hope I have cleared that matter up with you, Mr. Knowles. And, Dr. Brand, I think you and I think the same way about the CMA, do we not?

**Mr. Brand:** May I ask Dr. Tallon one question? It is rather a dirty one. You are a surgeon, Dr. Tallon, I presume?

**Dr. Tallon:** Yes, sir.

**Mr. Brand:** Would you do a hysterectomy on a four-months pregnant uterus, if you diagnosed the carcinoma-in-situ?

**Dr. Tallon:** I will tell you what I would do; I would treat the cancer, sir.

**Mr. Brand:** What is the modern treatment? Perhaps you can tell us for the benefit of the Committee—

**Dr. Tallon:** Do you mean cancer...

**Mr. Brand:** Carcinoma-in-situ of the cervix.

**Dr. Tallon:** I do not know whether the other members remember, but cancer in-situ is when the cancer is encapsulated and does not spread. I would not do anything to interfere with that pregnancy. But if there were a spreading cancer of the cervix, I would have that expectant mother treated by electrical treatment, at least by radiology, deep x-ray therapy or radium and then, quite possibly in that respect, that foetus would be killed. But whether it was or not, I would be quite justified in doing a hysterectomy. As you know, there is a difference between direct abortion and indirect abortion. It used to be the teaching of theologians that if I did an operation, or Dr. Adams, either one, and we found a tubal pregnancy—now this is a fact; I never paid any attention to it and I do not think I will go to hell for it either; the theologians are not always right...

**Mr. Knowles:** We will absolve you.

**Dr. Tallon:** Thank you very much. But it was a teaching that we could not interfere with that pregnancy in the tube. My philosophy is that this is nonsensical. I think the Creator intended that the pregnancy should grow to maturity in the uterus, not in the tube. Therefore, if I saw a tubal pregnancy was not ruptured, I would never have any hesitation in removing that tubal pregnancy and I think the doctors here will agree with me. This is a nonsensical stand that the theologians took. I remember a dear old sister in a hospital. When she thought we were stopping a pregnancy, she would stand over our shoulders and keep an eye on things, but we managed to do it just the same.

**The Chairman:** Have you any questions or comments, Mr. Cowan?

**Mr. Cowan:** I never waste time gilding the lily, Mr. Chairman.

**The Chairman:** Is it agreed that we print today's brief as an appendix to the proceedings for today?

**Some hon. Members:** Agreed.

**Mr. Knowles:** And a generous vote of thanks to the witnesses.

**The Chairman:** Are there any more questions? If not, we thank the witnesses for coming and making their presentations today. It has been a most informative day. Thank you, gentlemen.

The meeting is adjourned until next Tuesday when we will have a geneticist, Dr. Fraser, from Montreal.

## APPENDIX "L"

## BRIEF

Submitted by the Catholic Physicians Guild of Manitoba to the Standing Committee of the House of Commons on Health and Welfare,

## ON THE MATTER OF ABORTION.

November 16, 1967

Box 1166, Winnipeg 1, Manitoba

Mr. Chairman; Honourable Members of the House of Commons.

The Catholic Physicians Guild of Manitoba welcomes this opportunity of presenting its views to the Standing Committee of the House of Commons on Health and Welfare, presently concerned with certain proposed amendments to the existing abortion law. We hope and trust that the following views will be studied and given every consideration. In anticipation of this we extend our sincere gratitude to the Standing Committee.

The Catholic Physicians Guild of Manitoba was established in 1958 in order to encourage and foster the application of christian principles to the practice of medicine. Our Guild has an active membership of about 100 physicians who are dedicating their life's work to the preservation of human life irrespective of race, creed, age or any other circumstance. It is for this reason that we now express our deep concern for the passage of any legislation which might have the opposite effect.

We are dismayed that we are among colleagues who devote considerable effort towards the reduction of our relatively high neonatal death rate in Canada, but who appear to be quite ready to assault an unborn infant, whose need for protection is proportionately higher.

It seems almost redundant to point out to anyone that the physiological process of birth in no way alters the sanctity of the human organism. It only modifies body function in such a way that it will be better prepared for a life of independence. Can any thoughtful person seriously believe that there is any real difference in the human organism as it lives

either before or after birth? We physicians sometimes assist nature in bringing about this change in bodily function in preparation for independence, and considerable effort is demonstrated as surgeons press their ingenuity in helping conjoined twins to live an independent life. Each life is equal to every other and no one is to be preferred or considered more important than another. We can make no valid distinction between that person who is already born and established in life and the newly conceived, but yet unborn, child; between a white person and a negro; between those who are well or those who are not between the strong and the handicapped; or between the person of position and the under-privileged.

It must be admitted that there are some people who believe that the unborn infant is nothing more than a mass of protoplasm and that human life is not really in existence. We would be happy to know if such could ever be proven. If not, wherefrom is one's authority to destroy *any* protoplasm which *may* contain a human individual.

Furthermore, we submit for your consideration that caution should be exercised by those who believe that foetal tissue is nothing more than a mass of protoplasm, especially if they are unable to prove the absence of human life within its contents.

It is surely not without reason that Section 209 of the Criminal Code comes within Part VI relating to offences against the person. Although we express disagreement with the apparently self-contradictory definition of "a child that has not become a human being", we agree with the prohibition expressed by the section. For ease of reference may we now set out that section in full:

209. (1) Every one who causes the death of a child that has not become a human being, in such a manner that, if the child were a human being, he would be guilty of murder, is guilty of an indictable offence and is liable to imprisonment for life.

(2) This section does not apply to a person who, by means that, in good faith, he considers necessary to preserve

the life of the mother of a child that has not become a human being, causes the death of the child.

We would not and could not dispute that it is within the competence of Parliament to repeal or amend the law, but we do say that this law, *as it stands*, gives explicit recognition of our main point: that the unborn child is the vessel of human life. Surely, to "cause death" means to deprive of life. Surely a child is not a puppy or any other creature but a human individual.

Now, although we may not express the precise view of "public opinion" at large, whatever that may be, we hold our views sincerely, and since our views support the sanctity of human life we are not likely to abandon them without very cogent persuasion. Therefore, we cannot likely be dissuaded from our views, and conversely, we cannot likely convert all of the people of Canada to them. We must, therefore, not attempt to inflict our views on all. The law, however, must be clear and specific and must articulate *someone's* point of view. We might, perhaps, urge that the law be more strictly drawn, but we recognize that we live in a pluralistic society whose views are not monolithically ours. It is, therefore, our opinion that the law as it stands is adequate to accommodate points of view less strict than ours. We refer in particular to subsection (2) of Section 209 of the Criminal Code, and we presume that it would meet a multitude of situations. We say: Please do not change this law.

We say this for the pragmatic reason above stated as well as for a historic reason. A strict law spurs medical science to ingenuity. If abortion had been perfectly lawful during the past century, one might well wonder if medical scientists would have been so astute about developing the life-saving, indeed, the mother-and-child-saving techniques which have been developed to date. Would it not always have been simpler to abort? We suggest that the strictness of the law will historically spur medical science to more and greater techniques in this field, than a present removing of the pressure, by amending the law, will ever produce.

One of the major arguments of those who seek the abolition of the death penalty is that

the jury can be mistaken. If we are to be consistent should we not give the benefit of the doubt to what may be an utterly defenseless child. Endorsement of the laws permitting abortion would reflect a negative, destructive and death-inflicting routine which is contrary and contradictory to the goals and purpose of medical practice.

Furthermore, we suggest that once a State grants the right to kill the unborn, it is only a short step further to permit the killing of living defectives and even healthy individuals. Thus once abortion of any form is legalized, the State could move very rapidly into the direction of having the power to decide who is to be born and who is not; who is to live and who is to die. This is a right which we believe that the State must never have. Canadians are among those who are appalled at the crimes of genocide as witnessed during the Nazi tyranny. Whether the State would actually take that short step in the foreseeable future, or not, we submit that the State's acquiescence in the killing of humans can only brutalize the community by cheapening human life.

In conclusion, we believe that the procedure of abortion is a direct attack on human life and should be considered as both immoral and criminal. Our opposition is based upon fundamental and basic principles that a foetus is a human being, a human person made in the image and likeness of God, the Supreme Being, and as such is the subject of rights, particularly the right of protection against assault and murder and ultimately if it be God's will, the right to live, to be born, to see the light of day and be given the opportunity to live as a child of God and secure his own eternal salvation. Indeed, whether christian or not, it is every person's right to work out his own life as he can. We find it particularly disturbing that some of our colleagues propose for serious discussion that premeditated destruction of human life be considered at any time. We are even more disturbed that any responsible Body would recommend its legality.

The Guild is deeply grateful to you for the privilege and honour of presenting this statement.

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OFFICIAL REPORT OF MINUTES  
OF  
PROCEEDINGS AND EVIDENCE

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ALISTAIR FRASER,  
*The Clerk of the House.*

HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1967

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STANDING COMMITTEE  
ON  
**HEALTH AND WELFARE**  
*Chairman: Mr. HARRY C. HARLEY*

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MINUTES OF PROCEEDINGS AND EVIDENCE  
No. 9

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TUESDAY, NOVEMBER 21, 1967

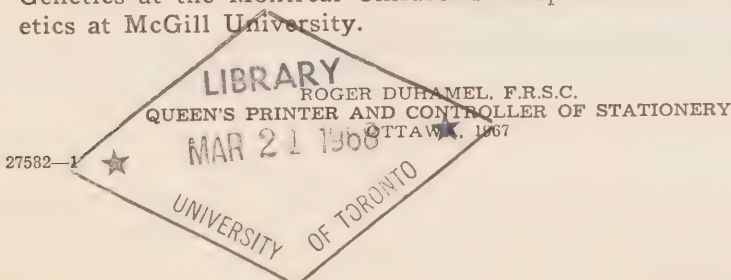
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Respecting the subject-matter of  
Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

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WITNESS:

Dr. F. Clarke Fraser, M.D., Ph.D., of Montreal, Director of Medical Genetics at the Montreal Children's Hospital and Professor of Genetics at McGill University.



STANDING COMMITTEE  
ON  
HEALTH AND WELFARE

*Chairman:* Mr. Harry C. Harley

*Vice-Chairman:* Mr. Gaston Isabelle

*and*

Mr. Allmand,	Mr. Enns,	Mr. Matte,
Mr. Ballard,	Mr. Forrestall,	Mr. O'Keefe,
Mr. Brand,	Mr. Howe ( <i>Wellington-Huron</i> ),	Mr. Orange
Mr. Brown,	Mr. Knowles,	Mrs. Rideout,
Mr. Cameron	Mr. MacDonald ( <i>Prince</i> ),	Mr. Rochon,
( <i>High Park</i> ),	Mrs. MacInnis ( <i>Vancouver-Kingsway</i> ),	Mr. Rock,
Mr. Chatterton,		Mr. Rynard,
Mr. Cowan,		Mr. Simard,
		Mr. Stanbury—(24).

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

TUESDAY, November 21, 1967.

(10)

The Standing Committee on Health and Welfare met this day at 11.15 o'clock a.m., the Chairman, Mr. Harry C. Harley, presiding.

*Members present:* Mrs. MacInnis, Messrs. Allmand, Brand, Cameron (*High Park*), Cowan, Enns, Forrestall, Harley, Howe (*Wellington-Huron*), Isabelle, MacDonald (*Prince*), Knowles, O'Keefe, Rochon, Rynard, Stanbury—(16).

*In attendance:* Dr. F. Clarke Fraser, M.D., Ph.D., Director of Medical Genetics at the Montreal Children's Hospital and Professor of Genetics at McGill University, Montreal.

The Committee resumed consideration of the subject-matter of Bills C-122, C-123 and C-136.

On behalf of the Committee, the Chairman acknowledged receipt of a brief submitted by the Catholic Hospital Conference of Manitoba on the matter of abortion.

*Agreed,*—That the above mentioned brief be printed as an appendix to this day's proceedings (*See Appendix "M"*).

The Chairman also acknowledged receipt of a report on Therapeutic Abortion, by Dr. H. Brody, M.D., F.R.C.S.(C), of Foothills Hospital, Calgary, Alberta.

*Agreed,*—That the above report be printed as an appendix to this day's proceedings (*See Appendix "N"*).

The Chairman introduced Dr. Fraser.

On motion of Mr. Brand, seconded by Mr. Knowles,

*Resolved,*—That reasonable living and travelling expenses, as well as a per diem allowance, be paid to Dr. F. Clarke Fraser appearing before this Committee, in accordance with the scale of expenses approved by Mr. Speaker.

Dr. Fraser made a short introductory statement and explained to the Committee, through projection of slides on a screen, certain conditions where the question of termination of pregnancy would come up.

Dr. Fraser was questioned.

*Agreed,*—That slide No. 1—Taking the Family History—be reproduced as an appendix to this day's proceedings (*See Appendix "O"*).

With Committee approval, Dr. Brand read into the record a letter received by him pertaining to the work of the Committee.

The Chairman thanked Dr. Fraser for having come before the Committee and for having brought his slides.

At 1:20 o'clock p.m. the Committee adjourned to 11 o'clock a.m. Thursday, November 23.

Gabrielle Savard,  
*Clerk of the Committee.*

NOTE: Referring to the Minutes of Proceedings of October 31, 1967 (page 96), permission having been obtained from The C. V. Mosby Company, of St. Louis, Miss. and from the author to reproduce the paper "Therapeutic Abortion—A 12 Year Review at the Toronto General Hospital 1954-1965", by Dr. Manuel M. Spivak, M.D., F.R.C.S.(C), of Toronto, Ontario, which was printed in the American Journal of Obstetrics and Gynecology of February 1, 1967 (Volume 97, number 3), the said paper is printed as an appendix to this day's proceedings (*See Appendix "P"*).

## EVIDENCE

(Recorded by Electronic Apparatus)

**Tuesday, November 21, 1967.**

**The Chairman:** Ladies and gentlemen. We are ready to start this morning's proceedings. Before we get into the examination of the witness before us, let me point out that you all should have received a brief in the mail within the last few days from the Catholic Hospital Conference of Manitoba. If you have not received it, you will in a day or so. I suggest that this be printed as an appendix to today's Proceedings. Is it agreed?

**Some hon. Members:** Agreed.

**The Chairman:** There is also correspondence from a Dr. Brody of the Foothills Hospital in Calgary, Alberta. It is a copy of a paper he presented to a sectional meeting of the Royal College of Surgeons conference in Calgary. I have read this and it is an excellent summary of an ordinary hospital experience giving indications and methods of carrying out abortions; in other words, some very first hand practical information. I suggest that this also be printed as part of today's Proceedings. In addition I shall see that each of you receives a copy through the mail within the next day or so. Is it agreed?

**Some hon. Members:** Agreed.

**The Chairman:** We have with us today Dr. F. Clarke Fraser. The Committee has called Dr. Fraser as an expert witness. I would like someone to move that reasonable living and travelling expenses, as well as a per diem allowance, be paid to Dr. Fraser in accordance with the scale of expenses approved by the Speaker of the House.

**Dr. Brand:** I so move.

**Mr. Knowles:** I second the motion.

Motion agreed to.

**The Chairman:** Now I would like to introduce Dr. F. Clarke Fraser, M.D., Ph.D., Director of Medical Genetics at the Montreal Children's Hospital and a Professor of Genetics at McGill University. Dr. Fraser.

**Mr. Forrestall:** Mr. Chairman, before you begin I would like to apologize for being absent last week. At the last meeting I attended, however, I asked the Committee whether or not it could consider engaging the services of an expert, such as Dr. Fraser. Was that dealt with during my absence?

**The Chairman:** Yes, the Steering Committee discussed this at the last meeting and it was felt that not a great deal would be accomplished by this. I think you mentioned a gynaecologist rather than a geneticist.

**Mr. Forrestall:** Well then, geneticist.

• (11:20 a.m.)

**The Chairman:** The gynaecologists themselves have varied opinions, and the members of the steering committee did not think there was a great deal to be gained by the Committee.

**Mr. O'Keefe:** Mr. Chairman, are the geneticists unanimous in their opinions?

**The Chairman:** I should point out that Dr. Fraser is not here to present a brief. He is to answer questions from the Committee concerning genetics. He is here as an expert witness on genetics and not to express opinions on abortion itself unless he wishes to do so.

**Mr. O'Keefe:** I simply asked if they were unanimous in their opinions?

**The Chairman:** I have no way of knowing that. Perhaps this will come out in the questioning.

**Mr. Forrestall:** We have to overcome certain problems and perhaps Dr. Fraser can meet my needs.

**The Chairman:** All right. Dr. Fraser.

**Dr. F. Clarke Fraser, M.D., Ph.D., (Director of Medical Genetics at the Montreal Children's Hospital. Professor of Genetics at McGill University):** Thank you very much, Mr. Chairman. I am honoured to be here to answer your questions. Perhaps I could start

with Mr. O'Keefe and say that geneticists are not likely to be unanimous on any matter, but I think most of them would feel the way I do about the present subject.

**Mr. Knowles:** You are right at home here.

**Dr. Fraser:** How would you like me to begin?

**The Chairman:** I suggested to Dr. Fraser earlier that he might tell the members of the Committee what the study of genetics really is, and what work he does in the hospital in Montreal.

**Dr. Fraser:** I work jointly at McGill University and the Montreal Children's Hospital. At the hospital, I study children's diseases, whether they are inherited, and if so, how. From time to time I get called on for opinions as to whether pregnancy should be terminated for genetic reasons. More precisely, I am asked for opinions as to the specific risk that an unborn child will be defective for genetic reasons.

I thought perhaps a good way to give you an impression of the sorts of conditions we are talking about would be to show you some pictures which I took at the hospital of children with conditions of genetic etiology.

**Mr. Knowles:** What is that word?

**Dr. Fraser:** Etiology—causation.

**The Chairman:** Diseases caused by genetics; diseases that are inherited, is that it?

**Dr. Fraser:** Diseases caused by genes.

**Mr. Knowles:** Is that a correct explanation the Chairman gave? Is this a disease caused by genetic conditions which means in our language something that is hereditary?

**Dr. Fraser:** Yes, I think it is fair to say that. I was hesitating because in some older literature, the word "hereditary" refers to diseases that are transmitted directly from generation to generation, and appeared in each generation. I prefer not to use the word that way, but to use it to refer to conditions which are determined by genes.

**Mr. Knowles:** May be affected either by heredity or by drugs and diseases?

**Dr. Fraser:** No, I am talking about diseases that are determined by genes. They may appear directly in successive generations or in just one group of brothers and sisters. These pictures might clarify the situation.

This is a pedigree of congenital cataracts producing blindness. All of these people are in schools for the blind. You are probably familiar with the family tree and how it is drawn. The squares represent males, the circles females and the darkened-in squares and circles are affected individuals. In this family, the cataract comes down through three generations and appears in about half the offspring of any affected individual.

This represents so-called dominant inheritance, where the genes produce the effect whenever present, and one can say that in any case where an affected individual is going to have children, each child has a 50-50 chance of having the same condition.

This next picture demonstrates another example of a dominantly inherited, rather severe malformation. These are the hands of a mother and her first baby, both with the so-called lobster claw, or split hand and foot defect. It can involve all of the extremities and produce these very serious deformities.

[See Appendix "O" for drawing of the pedigree of the family.]

The next slide is a pedigree of a family with this condition, again showing dominant inheritance. You can trace it in an unbroken succession through three generations. Once again, any child of an affected person has a 50-50 chance of having the same thing. Since the birth of this child, I might add, the mother has not had any more children.

The next slide shows a baby with a recessively inherited group of malformations. Its lower leg is severely malformed due to an absence of the tibia—that is one of the major bones in the leg—and its right arm lacks the radius, one of the major long bones of the lower arm.

The baby also has a malformed kidney. Later in life it will develop an anaemia which will eventually kill it. This is because it inherited from its parents an abnormal gene—one from each parent—a gene which in the parent does not produce any effects because there is a normal gene along with it.

The parent may never know that he or she is carrying the gene, but if they are both carrying the same one it can come out in the child and produce this sort of thing.

One can predict, on genetic principles, that any subsequent child of these parents will

have one chance in four of having the same condition, and dying of an aplastic anaemia later on in life.

The next slide illustrates a disease that does not show in the early stages of childhood but may begin to produce trouble around the age of two or three. The child has a progressive lack of balance, a so-called ataxia. She also has a defect in the cells that produce the antibodies which produce resistance to various diseases. Therefore she has recurrent infections from all sorts of organisms.

These children, so far at least, have inevitably died from the effects of these uncontrollable infections, or from the progressive central nervous system degeneration that produces the ataxia. Again, there is one chance in four that any subsequent child of her parents would be affected.

The following slide shows you her little brother who has the drooling mouth and the ataxia which, of course, you cannot see: He will also progress along the same course. These children are not mentally retarded. They are just as intelligent as they would otherwise be and are fully aware of their condition.

• (11:30 a.m.)

This slide shows a baby with a condition called chondrodystrophia calcificans congenita. I am sorry about the name I did not invent it myself. But it is a form of dwarfism which can also have with it cataracts, congenital heart disease and a variety of other malformations. This baby died of the effects of the disease. It does show recessive inheritance, and again there is one chance in four that any subsequent child in this family would have it. The next picture shows the brother of the previous patient. This baby was the sixth baby in the family. They already had three normal children and I think the mother would have been quite happy not to have had this one.

May I have the next slide, please?

This is a condition known as Hurler's disease or sometimes as gargoylism because of the grotesque facial features that develop. It is really a disease of metabolism and it involves the storage of abnormal substances in the liver and the central nervous system and other places. It is inevitably fatal and usually kills the child before the age of ten. Because of storage of this material in the

brain, there is progressive mental deterioration. Again, recessive inheritance, and this boy has a similarly affected sister.

What is the next one?

Now there is a sort of intermediate group of diseases with so-called sex-linked recessive inheritance. These are produced by abnormal genes carried on the "X" chromosome so that they tend to show up in boys, who do not have another "X" chromosome as their female counterparts do to carry a normal gene of this type. If the abnormal gene appears on the "X" chromosome it will be expressed in a boy, whereas it is usually protected against by the normal "X" chromosome in the female.

This condition is muscular dystrophy—a particular type of muscular dystrophy—and you see that the boy's thighs are so weak that he cannot get up off the floor except by first kneeling and then getting up on one foot and pushing himself up by pushing against his knees with his arms. That is what he is doing in the picture. He is in the intermediate stage of this disease which started at the age of about two with progressive weakness and trouble climbing stairs.

The next slide will show you the wasting of the muscles in his back producing the winging of the scapula when he tries to push himself up off the floor. The wasting of the muscles is progressive and these children, so far, inevitably die—usually by the age of twenty. Each brother of this child has one chance in two of developing the same disease.

The next slide shows you a family of four brothers in different stages of progression of the disease. The one on the left is confined to a wheelchair; the next one escaped by drawing the lucky "X" chromosome from his mother; the next one is the little boy you saw trying to get up. He can still walk around, or could when this picture was taken, although he is now in a wheelchair. The last one can still get around fairly well but he is going to go through the same stages of progression to death.

The next one please.

Here is a thalidomide baby, who, as you see, has no arms and a number of other not so severe defects. This one was produced by a drug, but there are genes that can produce almost indistinguishable conditions and again there are families where one can say that

any subsequent child will have one chance in four of developing the same sort of malformations.

We will stop there, but I hope this has given you some idea of the severity of the conditions about which I am called upon for opinions.

When Dr. Harley called me about appearing before this Committee, I went through my files and pulled out a number of family histories representing cases where an application had been made for a termination of pregnancy or, in some cases, sterilization only. With your permission I will tell you about a few of these to give you some idea of the kinds of problems that arise.

The first one represents a family in which the mother had been immunized against the RH blood group gene; consequently, she had antibodies in her blood which would make any child that inherited an RH positive gene sick, involving severe breakdown of the red blood cells and often brain damage because of the toxic products of the jaundice produced. These children may also be stillborn because of the antibody reaction. It is a very serious condition.

The first child in the family, aged 19, is in a school for the deaf and is somewhat mentally retarded. Another boy died at the age of three days from the effects of his disease. There was a girl, now aged 17, also in a school for the deaf and retarded and finally a boy, aged 12, who is in a school for the deaf. He has an I.Q. of 34, has epileptic seizures as a result of his brain damage, and has a condition known as athetosis which means, essentially, poor coordination of his movements and involuntary movements.

● (11:40 a.m.)

In this case the genetic situation was such that one could predict that all the children of this pair of parents would be RH positive and would therefore suffer the effects of this disease—100 percent probability. The mother, after the first child had been born and the situation became clear, made repeated attempts to have a tubal ligation which were refused; sterilization by tying of the tubes leading from the ovaries to the uterus. This, I might mention was in 1954, and it is quite possible that the situation would be different now, but, nevertheless this represents a case where the child was virtually certain to be defective and where the mother was unable to take the appropriate steps to prevent her having further children.

**Mr. Knowles:** Refused by whom, Doctor?

**Dr. Fraser:** In this case by her priest. I am not sure whether it would have been refused by the medical authorities or not. Probably not.

The second case deals with a man who was born with a hare-lip and a shortening of the long bones, a kind of dwarfism, who developed a progressive blindness. At the time of his marriage his doctor said this was not a hereditary condition; it would not be passed to the children. This probably was a reasonable attitude at the time because, at that point, it was not recognized that there was such an inherited condition. The first baby was born with a cleft-lip, dwarfing, dislocated hips and a malformation of the heart. It died from these complications.

The mother chose not to have any more babies and, in spite of the use of a diaphragm, became pregnant again. By that time, it was recognized that this was an inherited condition. The fact that it appeared in the father and child certainly was compatible with that.

We advised, therefore, that there was probably a 50 per cent chance any subsequent child of hers would be similarly affected and her obstetrician recommended termination of this pregnancy. In fact, there was a miscarriage spontaneously before the termination was done.

Several years later, I again interviewed the mother to find out how she felt about this. Her reaction was that she was thankful that she had not had to go through the experience of a pregnancy in which there was a 50-50 chance that the baby would have the same thing that her first baby died of.

The third case involved hemophilia, a bleeding disease. The mother who came to see me had an uncle who had died at the age of ten, of uncontrolled bleeding as a result of the hemophilia. She had a brother who had died of bleeding at the age of six—a result of hemophilia—and another brother who has survived successfully to the age of 21 or so, in spite of his hemophiliac condition. Therefore, on genetic grounds, she had a 50-50 chance of being a carrier of this gene. If she was a carrier, there would be a 50-50 chance that each of her boys would have the disease.

Her first boy, in fact, did have the disease. He is a hemophiliac. That means that he spends about three months out of every year in the hospital and there is untold expense

and worry concerning his bleeding tendency. Knowing that she was a carrier, the mother adopted the rhythm method to prevent having further children. She did not want to pass the gene on any farther but this resulted in the second child, which was a boy, with hemophilia.

She then went on the pill and this resulted in the third child which was a girl. It was, therefore, not a hemophiliac but had a 50-50 chance of being a carrier and having the same problem herself when she grew up.

Then they adopted the use of a sheath for contraceptive measures and, at that time, applied for sterilization since she did not want to have to go through this experience again. By the time she had applied for sterilization, and had come to the doctor's office to arrange for sterilization, she was again pregnant. The doctor applied to the committee of his hospital for permission to terminate this pregnancy. Letters were written by myself and the haematologist at the hospital stating the statistical risk that this baby would be a hemophiliac. The letters also stated that, in our opinion, the family history and genetic prospect justified termination of the pregnancy. The hospital committee declined the application and she now has a third hemophiliac boy.

The sterilization was done at the time of the birth of this boy. I recently talked to the mother who says that much as she loves her baby, she still wishes she had been able to have the pregnancy terminated in the early stages.

**The Chairman:** Before you go on, I might just say that hemophilia is a disease that affects the male but is transmitted through the female.

**Mr. Knowles:** Doctor, could you give the reasons the committee gave for refusing this application?

**Dr. Fraser:** As I understand it, sir, the committee did not feel that the one in four chance of the baby being a hemophiliac was sufficient grounds. I might add that committees vary in their opinions about this and that there are hospitals in the city where the committees would consider this a justifiable chance.

I believe from my obstetrical colleagues that opinion is changing on how much of a probability is unacceptable.

**The Chairman:** That will be one in four of being a hemophiliac and one in four of being a hemophiliac carrier?

**Dr. Fraser:** Yes, although, more explicitly, if it is a boy he has one in two chances of being a hemophiliac; if it is a girl, she has one in two chances of being a carrier.

I have only one more case, if the Committee will bear with me. This represents a family with muscular dystrophy of the sort that I showed you on the screen. The mother's brother had muscular dystrophy at about the age of two and one-half. He was in a wheel chair at the age of eight or nine and died at the age of 14.

Her first son had the condition. He could walk but not run at the age of five. He was in a wheel chair by the age of 10 and died at the age of 21. Her second child, which was a daughter, is well.

It is now possible to detect the presence of this abnormal gene in females by doing certain enzyme studies and these studies suggest that she is a carrier of the gene and will face this problem herself in future years.

After some 15 childless years the mother, to her surprise and distress, became pregnant again and applied to have the pregnancy terminated on the grounds of the high risk that the child would develop muscular dystrophy. At that time, which was some years ago, she was referred to the United States because it was so difficult to get a legal termination of pregnancy in Canada. Before she got the arrangements finally made her friends had found her a specialist, who illegally dilated her cervix in an attempt to start a miscarriage.

She was admitted to hospital bleeding but with appropriate treatment stopped bleeding again and the pregnancy was retained. She thereupon went back to the doctor and got dilated again. She was admitted to hospital with a life-threatening hemorrhage which she survived but which the baby did not.

Three years later, I again interviewed her and she stated that she had no regrets about having had the pregnancy terminated although she wished it could have been done in a more humane manner, and only a feeling of great relief that she had not produced a child with the probability of having such a terrible disease. I could go on but I think this is a good place to stop.

• (11:50 a.m.)

**The Chairman:** Thank you very much, Dr. Fraser. Mr. O'Keefe, you are next.

**Mr. O'Keefe:** Mr. Chairman and Dr. Fraser, we have seen some very pathetic pictures of children which were frightening and shocking, but remembering your statistics of a 50-50 chance of a healthy baby and in other cases of a one-in-four chance of a defective baby, do you not think it is even more shocking to abort the healthy ones; and do you not think, Doctor, that even the little crippled ones that we saw should at least have a chance to live and a chance to be cured?

**Dr. Fraser:** You have put two questions. The answer to the first question is "no"; the answer to the second one is that once they are born of course they have every right to all the advantages that medical care can give them.

**Mr. O'Keefe:** I am not quite clear on the answer to my first question. You would abort 100 per cent?

**Dr. Fraser:** In view of the high probability of the child being defective I would consider that the risk one takes of preventing the birth of a normal child is justifiable.

**Mr. O'Keefe:** One in four or 25 per cent?

**Dr. Fraser:** Yes, sir.

**Mr. O'Keefe:** Do you think that is a high risk?

**Dr. Fraser:** I certainly do in the cases that we are considering.

**Mr. Cowan:** You abort three healthy ones.

**Dr. Fraser:** So do the parents, think it a high risk I might say.

**Mr. O'Keefe:** I do not think I will ask any more questions about that, Doctor, because your attitude is clear.

What are the geneticists' view of the foetus as part of the human-life process?

**Dr. Fraser:** I am not aware of any stated views of geneticists on the question.

**Mr. O'Keefe:** Doctor, do you believe as a geneticist that a foetus is a live separate human being?

**Dr. Fraser:** Mr. O'Keefe, you are getting into grounds of philosophy.

**Mr. O'Keefe:** I am trying not to, Doctor. You are a geneticist. I am asking you if you think it is a live human being.

**Dr. Fraser:** I do not think my attitude as a geneticist on this question is worth any more than anyone else's attitude. I suppose it depends on what you mean by the words "human being".

**Mr. O'Keefe:** A live baby with a heartbeat, a foetus unborn with a heart beating with the certainty of being a boy or a girl.

**Dr. Fraser:** In the light of modern genetics this is not always a certainty! I think that the foetus at this stage is a potential human being.

**Mr. O'Keefe:** At which stage?

**Dr. Fraser:** The stage you were referring to, which I presume is about three months.

**Mr. O'Keefe:** Well what about two months?

**Dr. Fraser:** At the moment of conception of course the potential human being begins to exist.

**Mr. Cowan:** That is right.

**Mr. O'Keefe:** I will pass Mr. Chairman. Thank you.

**The Chairman:** Dr. Brand, you are next.

**Mr. Brand:** Mr. Chairman, first of all I would like to thank Dr. Fraser for coming and bringing to the attention of this Committee this very important subject, and for taking time out of his very busy schedule to do so.

I might say, Dr. Fraser, you brought to the attention of this Committee something that is not mentioned in any of the bills, the possible hereditary cause of deformity and things of this nature. Most of our bills refer mainly to the taking of drugs or the advent of disease which would cause generic effect in the foetus. I do not believe any attention has been paid in any of our bills to the hereditary effects of disease.

Could you tell the Committee, Dr. Fraser, the extent to which chromosomal studies have gone, outside of the genetic probability, to predict any deformities that may result in the foetus?

**Dr. Fraser:** You mean in the foetus itself?

**Mr. Brand:** Yes. Have you been able to do anything along these lines?

**Dr. Fraser:** It is now possible, as I understand it, although I myself have not any experience, to obtain cells from the amniotic fluid, which will grow, and then one can examine the chromosomes of cultures derived from these cells. If the chromosome picture demonstrates an abnormality of the kind that one gets in mongolism for instance, one can state with certainty that the child will be retarded. I might say that the popular press has been somewhat misleading in this regard and I have seen it stated that it is possible to tell from the chromosomal analysis that the child will not be retarded. This is not true. One can identify certain particular causes of retardation from examination of the chromosomes but if these chromosomal aberrations are not detectable this does not mean that the child will be normal; it could still have mental retardation from genetic causes such as the ones I have shown you, or various other causes.

**Mr. Brand:** But in certain specific instances it is possible to be certain, as you have mentioned?

**Dr. Fraser:** Yes.

**Mr. Brand:** How widespread is this now, let us say in Canada?

**Dr. Fraser:** Well it is not very widespread at all, sir, as far as I know. There are certain difficulties and certain restrictions. One just cannot stick a needle into the abdomen like one would take blood from a finger. There are certain hazards that are not yet fully evaluated and I think it is fair to say that by the time one could be sure of getting such cells the baby is fairly well along.

**Mr. Brand:** Have you done any chromosomal studies on anyone who has had therapeutic abortions to see if there is any change?

**Dr. Fraser:** I have not been studying chromosomes of abortuses myself, no.

**Mr. Brand:** Are there any studies of which you are aware that have been done on this subject?

**Dr. Fraser:** Yes, there are several studies on the chromosomes of abortuses.

**Mr. Brand:** Do you have any of their findings, and if so, have there been any changes as a result of therapeutic abortion?

**Dr. Fraser:** Oh I see what you are getting at. I am sorry but I misunderstood your question in the first place. I do not know of any study on the chromosomes of children from parents who have previously undergone a therapeutic abortion. Is that what you mean?

**Mr. Brand:** Yes.

**Dr. Fraser:** I do not know of any such study. I do not think anyone would consider them worth doing.

**Mr. Brand:** Are you familiar with the pamphlet prepared by Russell B. Shaw called "Abortion and Public Policy," a 1966 publication of the Family Life Bureau of the National Catholic Welfare Conference in Washington, D.C.?

**Dr. Fraser:** No, I am not.

**Mr. Brand:** I will read that into the record later just for our own information, Mr. Chairman.

How about those who have had LSD; are you one of those who have examined the chromosomes of women who have taken LSD?

**Dr. Fraser:** No, but some of my colleagues have. The situation seems to be a controversial one at the moment.

**Mr. Brand:** You did mention RH incompatibility and I think you gave the impression to the Committee that all of these babies were handicapped. You would not agree that was true, would you, Doctor?

**Dr. Fraser:** No. I am sorry if I gave you that impression. It was true in the particular case that I was describing because of the father's genetic constitution.

**Mr. O'Keefe:** Did you not say that the situation is different now?

**Dr. Fraser:** No, I said that the attitude of the priesthood, of the clergy toward tubal ligations or sterilizations under these conditions may well be different now.

• (12 noon)

**Mr. Brand:** I believe there have been some tremendous advances in the field of RH in compatibility, or early diagnosis and perhaps even treatment or intrauterine transfusion of such babies in order to have normal babies without the danger of kernicterus and other such dread conditions.

**Dr. Fraser:** There have indeed, sir.

**Mr. Brand:** What about treatment of some of the conditions you showed us? I realize some of them are not treatable, but what about congenital cataract?

**Dr. Fraser:** As you know, these cataracts can be surgically needled. However, the person is still left with a rather severe visual defect.

**Mr. Brand:** But it can certainly be treated to a degree?

**Dr. Fraser:** Yes.

**Mr. Brand:** I believe you pointed out with respect to haemophilia, and this is a change from what I learned in medical school, that although I thought if the mother was a carrier all the male children would have haemophilia, this is not the case?

**Dr. Fraser:** No, sir.

**Mr. Brand:** It is not right?

**Dr. Fraser:** The teaching of genetics must have improved since you were a student!

**Mr. Brand:** I think it has. They used to teach that it was dominant in its effect on the males in the family, but this is not necessarily true.

**An hon. Member:** You are both getting older!

**Mr. Brand:** I am really getting old.

**Mr. MacDonald (Prince):** May I ask a supplementary to this question, Dr. Brand. Is it correct that the male child is not a carrier of haemophilia even though he may suffer from the disease?

**Dr. Fraser:** The male child either has the disease or does not have the gene at all, and therefore he would not be a carrier. If he has the disease he will transmit the gene to all his daughters, who will be carriers.

Incidentally may I ask the press to be discreet about what they print. I hope they will not publish specific details of the families I have described because it might lead to their identification by people who know them, they might be able to identify them from the family history I have given.

**Mr. O'Keefe:** Are there so few families in Canada involved that it is possible one family could be identified?

**Mr. Enns:** Perhaps with relation to one specific practitioner, yes.

**Dr. Fraser:** Are you asking about the frequency of these conditions which I see?

**Mr. O'Keefe:** I am sorry to have interrupted.

**Mr. Knowles:** That is a good question.

**Dr. Fraser:** I think it is fair to say that if you took the specific detail of how many brothers and sisters there are and what relationship the affected individuals bore to the mother and the ages of the children at death and put these all together you might come up with a picture that applied to relatively few families.

**Mr. Brand:** I have one further question, Mr. Chairman.

**The Chairman:** I am sure we can count on the press to be discreet.

**Dr. Fraser:** Thank you, Mr. Chairman.

**Mr. Brand:** One last question. Referring to the clauses of some of the bills that are before us on the genetic effect of certain drugs and/or diseases, if a certain drug is given to the mother do you have any specific views about the manner in which you can predict its effect on the foetus? Are there any particular ways of telling what the probability will be, and things of this nature? Let us take thalidomide as an example, the easy one.

**Dr. Fraser:** Is this really relevant to the problem that...

**Mr. Brand:** I think it is extremely relevant because it is suggested in the Bill that therapeutic abortions be permitted where there is a grave danger of physical abnormality resulting from the administration of a drug to the mother while she is pregnant within the first trimester and/or where the mother suffers from a disease such as measles, and things of this nature, in the first trimester. I think it is very relevant.

**Mr. Knowles:** I would like to ask the doctor...

**Dr. Fraser:** I am sorry to have hesitated but I am rather involved in this question. I could go on for quite a long time about it and I do not want to get into the question of how one tests a drug for harmful effects on the foetus.

**Mr. Knowles:** I do not want to deny the relevancy of the question but is Dr. Brand quoting the bill correctly?

**The Chairman:** No, he is not. I was going to say that two of the bills make reference to...

**Mr. Knowles:** Risk of deformity.

**The Chairman:** ... risk of deformity. I agree that the word "hereditary" is not in there but neither is it excluded in the way the bills are worded and there is no reference anywhere in the bills to drugs or any other kinds of medication. One bill reads:

that there is a substantial risk of a defective child being born;

The other bill reads:

that there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped.

**Mr. Brand:** I was referring to the evidence given earlier by those who proposed the bills to this Committee and I think you will find that the word "drug" is used extensively.

**Mr. Knowles:** Dr. Brand is now telling us what is in the bill. The bill talks about "risk of deformity".

**Mr. Brand:** I am telling you what is in the evidence that was given before the Committee, Mr. Chairman, by those who presented the bills.

**The Chairman:** I was going to say that many times we hear it said in the House that it is not important what is said, it is important what is in the legislation, and here we are worrying about the bill before us. Carry on with your question.

**Mr. Brand:** Let us be honest, Mr. Chairman. If and when a bill is brought down by the House it will not be the same as the three private members' bills.

**The Chairman:** Not necessarily.

**Mr. Brand:** This question is an important one from the viewpoint of the Committee...

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, it is.

**Mr. Brand:** ...and I am sorry if I have quoted the bills presented by the honourable member on my right incorrectly but I think it is something that is important to this Committee and one of the reasons I wanted Dr. Fraser here was so that he could give some evidence on this matter.

**Dr. Fraser:** I think now that I understand the tenor of the question I will attempt to answer it to the effect that for certain drugs it is possible to present empirical estimates of the probability that a baby will be deformed following exposure to the drug. This is particularly true of thalidomide. However, there are considerable difficulties in making this estimate because one never knows how many mothers took the drug and did not have malformed babies, so that your denominator is usually somewhat vague. Nevertheless it can be stated from the accumulated evidence that the risk is at least 20 per cent and some authorities, including Dr. Lenz, who was the one that first discovered this thalidomide effect, says that if the baby is exposed at the appropriate period of gestation the risk is almost 100 per cent. This is still somewhat controversial, but it is certainly at least 20 per cent.

**Mr. Brand:** Do you agree with the figures that were presented to the Committee that up to 50 per cent of the babies born to mothers who were exposed to german measles in the first trimester—with a backward ratio of up to 85 per cent exposure within the first two weeks of gestation—will have grave abnormalities? I believe a professor from the University of Toronto mentioned those figures.

**The Chairman:** Professor Cannell?

**Mr. Brand:** Professor Cannell, yes.

**Dr. Fraser:** I may not be au fait with the very latest figures. I would have said about 50 per cent in the first 4 weeks and I am surprised to hear that it goes up to 85 per cent. It may be there is more data available than I have seen. It is very difficult to get precise figures on this because one has to identify the mother and then follow up the child and it may take a matter of some years. A lot of the figures have been based on identifying the child and then coming back to the mother, which biases the situation.

• (12:10 p.m.)

**Mr. Brand:** Doctor, there has been a lot of evidence given to this Committee which strongly suggests that therapeutic abortions should be carried out in these circumstances because of the grave possibility of deformity of the child. Do you agree with this?

**Dr. Fraser:** I believe the graveness of the probability is associated with the severity of

the defect, and if the probability is 20 per cent that the child will be mentally retarded and blind and/or deaf, then this is a grave probability.

**Mr. Brand:** Do you agree that if it was deafness alone, as Dr. Cannell said, that this would be a grave deformity and an adequate reason for a therapeutic abortion? I am sorry if I am putting you on the spot. You do not have to answer that.

**Dr. Fraser:** It is very difficult to put these things into cold statistics. My personal opinion would probably be that deafness alone would not be an adequate reason.

**The Chairman:** I think Dr. Cannell also later qualified that and said that it was usually associated with other defects.

**Mr. Brand:** I just wanted to show that the problem was not as black and white as it has been presented to the Committee, Mr. Chairman.

**Mrs. MacInnis (Vancouver-Kingsway):** Dr. Fraser, I wonder if you could give us any idea about the dimensions of this problem of deformed children. I thought that from some of your answers perhaps some people might get the impression, because you urge the press not to deal with this as these children are identifiable, that there might be only a handful in Montreal and another handful in Toronto and maybe a handful in Vancouver, and that that would be about all in Canada. Could you give us any idea of the number of deformed children involved in this problem?

**Dr. Fraser:** Deformed for a specifically genetic reason?

**Mrs. MacInnis (Vancouver-Kingsway):** Yes. Let us deal with genetic reasons first.

**Dr. Fraser:** Well, I can say that almost all the conditions I have mentioned are rare, but on the other hand that there are quite a lot of them; several hundred, perhaps, identified so far. At least several hundred.

**Mr. Cowan:** How are they rare if you say there are several hundred? It is one or the other.

**Dr. Fraser:** I said that each one of them is rare but that there are a lot of such conditions. If you like, to give you some idea of their order of magnitude, I could take the estimate for haemophilia, which is something like one in 25,000 births. This sounds low but

it means that there are quite a number of haemophiliacs across Canada.

**Mrs. MacInnis (Vancouver-Kingsway):** How many would there be across Canada now, roughly?

**Dr. Fraser:** Somebody else do the arithmetic. What is the population of Canada?

**Mrs. MacInnis (Vancouver-Kingsway):** Twenty million.

**Dr. Fraser:** So that would be about 800. Fibrocystic disease of the pancreas which is—at the moment anyway—a lethal progressive degenerative disease with recessive inheritance, may go as high as one in 3,000. Shall I go on?

**Mrs. MacInnis (Vancouver-Kingsway):** No. I guess probably it has not been worked out too thoroughly yet, but there would be a sizeable number across the country. It is not just the case of a few.

**Mr. Enns:** It involves several thousand children all told.

**Dr. Fraser:** Yes. In fact that is a minimum, if you include the diseases that come on after birth. The last estimate of the WHO Committee on Radiation was that maybe one per cent of all children are born with a handicapping condition with a clear-cut genetic cause.

**Mrs. MacInnis (Vancouver-Kingsway):** A serious condition?

**Dr. Fraser:** A handicap, serious enough to require medical treatment. This would not perhaps be serious enough to demand the sort of consideration we are giving it but...

**Mrs. MacInnis (Vancouver-Kingsway):** Thank you. In regard to your examples which you showed us, they were all physical deformities. Could you tell us anything about mental conditions that are caused genetically and the size of that problem?

**Dr. Fraser:** There are quite a number—I did not show pictures of them because there is not very much to see, of course. But there are things like phenylketonuria with a frequency of...

**Mr. Brand:** That, doctor, you must qualify as treatable if it is recognized.

**Dr. Fraser:** It is. It is now treatable, yes.

**Mrs. MacInnis (Vancouver-Kingsway):** Would you give us the English version each time so that we know what...

**Dr. Fraser:** There is not any.

**Mrs. MacInnis (Vancouver-Kingsway):** Well, what does it mean? Big heads or what?

**Dr. Fraser:** It is referred to as PKU in the popular sense.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, but what does it do to the child?

**Dr. Fraser:** Without treatment it produces severe mental retardation and convulsions.

**Mr. Brand:** Could we not put in there that this is recognized now and that most babies in Canada are tested for this at birth in order to prevent it? Is that not correct, Doctor?

**Dr. Fraser:** Yes.

**Mrs. MacInnis (Vancouver-Kingsway):** It is preventable?

**Dr. Fraser:** Yes, although some still consider this a matter of argument.

**Mrs. MacInnis (Vancouver-Kingsway):** It is curable?

**The Chairman:** Not preventable. Diagnosable and treatable by diet.

**Mrs. MacInnis (Vancouver-Kingsway):** But it is curable. Is it?

**Dr. Fraser:** I am not sure what you mean by curable.

**The Chairman:** Curable if they stay on a diet.

**Mrs. MacInnis (Vancouver-Kingsway):** A few minutes ago Mr. O'Keefe was suggesting that because a good many of these babies, can be cured after they are born even if they were born badly handicapped, we should take a chance on them. I want to find out whether, under proper treatment, we have any hope of curing these mental diseases you are speaking of now.

**Dr. Fraser:** There are a number of such conditions where the effects of the abnormal metabolism can be prevented, so that the baby is allowed to grow relatively normal. This is a minority of conditions so far but it may improve.

**Mrs. MacInnis (Vancouver-Kingsway):** What is the size of the problem where there

is hopeless genetic retardation that you know is going to happen and where nothing of any consequence can be done about it if allowed to go on?

**Dr. Fraser:** I am afraid I have never attempted to put a figure on it. It is not large, percentage-wise I would not think.

**Mr. O'Keefe:** It is not very much.

**Dr. Fraser:** But it is terribly large to the families who have it.

**The Chairman:** Could I ask a question? Perhaps in some of these things you showed us and some of these other things, along with the physical abnormality there is an associated mental abnormality? I mean some of those you showed us were also retarded.

**Dr. Fraser:** Yes, that is correct.

**Mrs. MacInnis (Vancouver-Kingsway):** I wanted to ask whether these abnormalities came in groups or was it just one abnormality? Deafness, we were lead to believe by Dr. Cannell and yourself did not always come by itself but there were other things along with it. Do these abnormalities come in groups mostly or are they just single things?

**Dr. Fraser:** Many of the abnormal genes produce a group of defects—if that is what you mean—a so-called syndrome. Some of them produce, on the other hand, a very specific and well-defined abnormality and I do not think one can generalize.

**Mrs. MacInnis (Vancouver-Kingsway):** Now I want to ask one or two questions, if I may, about the parents of these people, particularly the mothers, who have to carry them and bring them up. How do the mothers of the youngsters that you were showing feel? Is there any general reaction on the part of these parents to having more of these children or not? Of the women?

**Mr. O'Keefe:** They love them.

**Mrs. MacInnis (Vancouver-Kingsway):** Do they want more of them? Do they want to take a chance on having more of them?

**Dr. Fraser:** I do not think one can generalize there, Mrs. MacInnis. I think each case is an individual one. I know parents who have faced a one-in-four risk of having a child with a terrible disease because they wanted normal children. Parents without any family or with a small family may be prepared to take this risk. On the other hand I know and

I have quoted to you parents who are horrified at the prospects of having yet another defective child. I do not think one can generalize at all.

**Mrs. MacInnis (Vancouver-Kingsway):** Let me ask you another question. You do not need to answer this one if you do not want to. Do you think, as a doctor, a medical man, a geneticist, that it is a good idea to take the risk of producing the sort of thing we saw on the screen this morning?

• (12:20 p.m.)

**Dr. Fraser:** I do not think I can answer that question in its present form.

**Mrs. MacInnis (Vancouver-Kingsway):** Let me see if I can put it in a different way. Let me ask it then as a citizen. Do you think that we are justified as a society in allowing people who want to get away from that risk not to do so? Should we make it possible for people who want to get away from that risk to do so, legally?

**Dr. Fraser:** I believe the answer is yes. I would answer that question, yes; that there are families in my experience that I wish could be allowed not to have more children, in the circumstances, where they do not want them.

**Mrs. MacInnis (Vancouver-Kingsway):** In the case of the grave genetic disabilities and inheritances do you think that the answer to that sort of thing, in so far as there can be one answer, is abortion or is it sterilization?

**Dr. Fraser:** I intended to point out that if women—parents, I should say; not necessarily women—if parents were allowed to seek sterilization and be sterilized with less trouble than there is now, a lot of these problems would be prevented. So I would like to see it easier to get sterilized. But there still remain women who become pregnant when they do not want another child for genetic reasons and I would like to see it easier for them to obtain termination of pregnancy.

**Mrs. MacInnis (Vancouver-Kingsway):** Now, just one more question. In the case of that family of the four boys that you showed us—and there are some other cases that you have been mentioning—where there are multiple, several children in one family. What is your view of the wisdom of the clause in the British bill that says that where the other children—the total of the family—are affected abortion should be made per-

missible? Are genetic difficulties an argument for making abortion apply to the well being of the totality of the family?

**Dr. Fraser:** I would have to think about that question for longer than the conditions of this Committee will permit.

**Mrs. MacInnis (Vancouver-Kingsway):** Perhaps we can have a return visit.

**The Chairman:** Mr. Stanbury?

**Mr. Stanbury:** Dr. Fraser, in the present state of the science of genetics is it possible for Canadians to decide, with a good degree of certainty, the likelihood of having children who are going to be handicapped through genetic causes?

**Dr. Fraser:** If I understand you correctly it is by no means always possible to decide with certainty what the probability is, particularly, before any defective children have been born in the family. However, once a child has been born and the condition is recognized, if it is a condition that is known to be genetically determined, then it is usually possible to state a precise probability.

**Mr. Stanbury:** This has developed quite rapidly over recent years, has it not?

**Dr. Fraser:** Yes; knowledge of the genetics of human diseases is developing rapidly.

**Mr. Stanbury:** How many geneticists are there in Canada?

**Dr. Fraser:** I cannot give you a figure. Do you mean geneticists en général, or geneticists dealing with medical conditions.

**Mr. Stanbury:** Is there a medical specialty in genetics?

**Dr. Fraser:** Not recognized by the College.

**Mr. Stanbury:** Not recognized by the Royal College.

**Dr. Fraser:** There are relatively few geneticists trained to work with medical conditions in Canada.

**Mr. Stanbury:** I suppose there are geneticists who are not medical doctors. How many medical doctors in Canada are experts in genetics?

**Dr. Fraser:** I am not sure whether or not I am exposing myself to libel, but I would say about three.

**Mr. Stanbury:** That is a matter of opinion, I suppose.

**Dr. Fraser:** Yes.

**Mr. Knowles:** You could take a poll in this room.

**Mr. Stanbury:** Have you served on a therapeutic abortion committee in a hospital.

**Dr. Fraser:** No.

**Mr. Stanbury:** It is not common for a geneticist to be a member of such a committee, I suppose, since you are one of the very few who might be qualified?

**Dr. Fraser:** No, it is not common.

**Mr. Stanbury:** But it is common for a person such as yourself to be called on by such a committee to give what might be termed expert evidence. You are often asked to examine a case and make a recommendation to the committee on an applicant?

**Dr. Fraser:** I would not say often, no. I do not suppose I get more than three or four a year.

**Mr. Stanbury:** I see. But it is as a kind of expert witness that you usually come into contact with terminations of pregnancy?

**Dr. Fraser:** That is right.

**Mr. Stanbury:** I presume you have done studies on the genetic effect of all manner of modern foods, drugs and conditions. Are you familiar with any studies...

**Dr. Fraser:** Before you go on I have to answer no to that.

**Mr. Stanbury:** All right; a wide variety. I do not mean all. For instance have you done any studies on the genetic effects of something which seems as innocuous as the tars or nicotine of cigarettes?

**Dr. Fraser:** I personally, you mean?

**Mr. Stanbury:** Yes; or are you familiar with any such studies.

**Dr. Fraser:** I am familiar with some studies on the genetic effects of nicotine in lower organisms.

**Mr. Stanbury:** Not in humans?

**Dr. Fraser:** No; such studies would be virtually impossible to undertake in humans in our present state of knowledge.

**Mr. Stanbury:** I see.

**Dr. Fraser:** I hope we are clear about the difference between genetic effects and congenital effects?

**Mr. Stanbury:** Well, tell us about the congenital effects.

**Dr. Fraser:** "Congenital", properly used, means present at birth and has no implications about whether the cause of the congenital defect is genetic or not.

**Mr. Stanbury:** Are you familiar with any studies of these congenital effects, then?

**Dr. Fraser:** Yes.

**Mr. Stanbury:** Could you tell us a bit about that?

**Dr. Fraser:** About these possibilities that someone may use materials that produce congenital defects?

**Mr. Stanbury:** Yes; and taking as an example, for instance, heavy smoking.

**Dr. Fraser:** I cannot speak as an expert on this, but I am aware of studies that show that heavy maternal smoking does influence the baby, at least by reducing its birthweight and probably increase the rate of prematurity, which has its own risks.

**Mr. Stanbury:** Have there not been recent studies which indicate there may be some permanent damage to the child, even from heavy smoking in some individuals?

**Dr. Fraser:** Not to my knowledge; except those associated with prematurity.

**Mr. Stanbury:** In any event this is not your field of specialty, because it does not involve genetics. It is not something that is going to be carried from generation to generation, to the best of your knowledge at this stage?

**Dr. Fraser:** That is correct.

**Mr. Stanbury:** I was interested in your reference to Rh incompatibility. Would you be able to give us an estimate of what are the numbers of such cases now? You have given us the incidence of haemophilia and of fibrocystic diseases of the pancreas. Could you give us some idea of the current incidence of disease arising out of Rh incompatibility.

• (12:30 p.m.)

**Dr. Fraser:** The last time I looked the estimate ranged around one on two hundred births that show some effects. If these are recognized early and treated properly, the long term detrimental effects may often be avoided completely, so that the estimate of permanent damage would be much less. I understand that there is a method whereby one can prevent Rh incompatibility through immunization of the mother, by treating her after the birth of the first baby. Perhaps the estimate of the one or two hundred will now fall very rapidly.

**Mr. Stanbury:** When you mention an incidence of one and two hundred, can you then go on to tell us the incidence of actual damage in children, bearing in mind, what Dr. Brand has pointed out, that the treatment of this condition has raced on over the past ten or fifteen years to such an extent that it is almost—this is my impression—non-existent.

**Dr. Fraser:** I would not say non-existent. Of course the frequency of damage varies very widely, depending on the carrier and the medical facilities available. But you are quite right that in view of the most recent developments in the field it may decrease dramatically.

**Mr. Stanbury:** Is it not true that when the child to whom you referred, who is now 19 years of age, was born, incidence of damage to children because of the Rh factor was many times higher than it is today? In other words, nearly all the developments in this field have taken place in the past fifteen years?

**Dr. Fraser:** That is correct.

**Mr. Stanbury:** With present-day transfusions of children after birth, where their blood is exchanged, with what I believe is called uterine transfusions prior to birth, and with the various tests that you have just referred to, would you not say that the chances of damage to children from this genetic cause have been reduced almost to the vanishing point in Canada?

**Dr. Fraser:** I would say the chances have been reduced; I do not think I would say "almost to the vanishing point" yet. This may well come over the next ten years or so.

**Mr. Stanbury:** But is not any hospital where a transfusion can be done capable of

handling nearly all the problems in such a case?

**Dr. Fraser:** No; the baby may be stillborn in some cases.

**Mr. Stanbury:** Are we not talking about live births, one out of 200 live births?

**The Chairman:** I should point out that the kind of transfusion that Mr. Stanbury referred to after birth, where the blood is exchanged, is not as simple as a normal transfusion and it would not necessarily be available in all hospitals. Is that right, sir?

**Mr. Brand:** These tests are not available across the country; for those in the west these tests must be done in specialized laboratories down east here. This is still true in respect of certain blood factors.

**Mr. O'Keefe:** They certainly have been done in St. John's.

**Mr. Stanbury:** Well then, Dr. Fraser, the fact is that though it is so easy to detect this condition well in advance, other than perhaps economic reasons there is nothing medically to prevent the arrangement of an exchange transfusion for any such child in Canada because there is plenty of warning available of this condition. Is that right?

**Dr. Fraser:** That is correct except in the case where the damage begins *in utero*.

**Mr. Stanbury:** There are now uterine transfusions being done to cope with that situation.

**Dr. Fraser:** Which are not entirely successful yet.

**Mr. Stanbury:** No, I just felt that that example you used was an unfortunate one and one which might, as Dr. Brand suggested, give a false impression to the public. I had four children myself under these conditions and none of them have had any of the effects you speak of simply because of the tremendous advances over the past fifteen years.

**Dr. Fraser:** If I may comment on that, I did not use this as a case on which to recommend abortion now. I used it as an example of a family where the risk was 100 percent and yet the mother at the time was unable to get sterilized.

**Mr. Stanbury:** Yes, but I thought it might be misunderstood by people who did not

have the same background as you do. The real point of what you have been telling us I think is what I mentioned at the beginning of my questioning. The fact is that with the state of your science you can be very helpful to people in making their own decision whether or not they should have further children. I do not think you are really here to give your personal opinion whether that choice should lead to sterilization, abortion or birth control; the purpose of your advice is to afford people the opportunity to make a judgment whether or not they should have further children on their own.

**Dr. Fraser:** Yes, that is quite correct.

**Mr. Stanbury:** Thank you.

**Mr. Isabelle:** A professor of gynaecology in San Francisco recently declared at the end of his speech that we are on the verge of completely solving the entire problem, and I think this is good.

It was mentioned here that there are only three or four geneticists in Canada. I want to point out that in 25 years there probably will be a thousand because it is a very basic study of life. We were dealing only with the effect and now we are going to deal with the causes.

**Dr. Fraser:** if you had to draft a bill on abortion or pass an act on abortion would you put in the bill or act that you would permit abortion for eugenic reasons?

**Dr. Fraser:** No, Doctor, I would not. Did you say eugenic causes?

**Mr. Isabelle:** Yes.

**Dr. Fraser:** No, I certainly would not.

**Mr. Isabelle:** Why?

**Dr. Fraser:** Well in my mind eugenic refers to the frequency of genes in future generations. I presume you are referring to the idea that you might improve the genetic quality of mankind by sterilizing people who had bad genes.

**Mr. Isabelle:** So you are not in favour of that.

**Dr. Fraser:** No, I would favour allowing people who do not want to have children who are likely to be defective to obtain abortions or sterilization voluntarily but I do not think we know enough about the factors that

control genes in subsequent generations or about human nature to put anything in a bill about eugenic factors.

**Mr. Isabelle:** How many years do you think it will be before genetic science is completely accepted. How long will it take to clarify the whole situation so that we can prevent any of these things that you were talking about this morning—malformations and things like that. Will it be 10 years?

• (12:40 p.m.)

**Dr. Fraser:** Oh I think it will be longer than that.

**Mr. Allmand:** Dr. Fraser, if all persons were obliged to have medical tests before they were married could you pick out the ones that would be likely to transmit genetic defects to their children?

**Dr. Fraser:** In some cases you could, sir, but I would think that for the majority you could not. In most of the recessive ones one cannot detect the presence of the gene in the carrier although there is progress being made in this direction and one can do so for a certain number of recessively inherited diseases. I would say that at present for the majority one cannot detect the presence of a recessive gene until the parents have actually had a defective child.

**Mr. Allmand:** I think some jurisdictions do require medical tests like this. Do you think, despite the state of genetics now, that such tests are worthwhile for this purpose before people marry?

**Dr. Fraser:** Offhand and without having documented it or anything I would think it is a bit premature to introduce such tests. There are better ways we can spend our money on improving the public health.

**Mr. Cowan:** Such as Medicare?

**Dr. Fraser:** No comment.

**Mr. Allmand:** You said you would prefer easier sterilization for people who did know they might transmit genetic defects as probably the best way of dealing with it as opposed to taking chances with birth control or abortion. Is there any work being done by medical scientists to treat carriers of genetic defects so that they will not transmit them? Not to correct it in themselves but to eliminate the passing on. Instead of treating the person who might be born, treat the person

who is a carrier as in the cases of women who have haemophilia.

**Dr. Fraser:** I would say this is still largely in the realm of speculation, however, the way things have been going lately there is serious speculation about this possibility but no practical advances.

**Mr. Allmand:** Thank you.

**Mr. Stanbury:** Mr. Chairman, I have a supplementary question on sterilization. As far as you are aware, is there any federal law—or criminal law—that inhibits sterilization?

**Dr. Fraser:** I have not looked into the situation.

**Mr. Stanbury:** But you have mentioned that you were concerned that it did not seem to be as readily available as it should be. This Committee should be concerned about that if there is anything we can do about it. In my opinion there is no federal law which prohibits or limits it.

**Dr. Fraser:** Is that correct?

**The Chairman:** The witness obviously has no knowledge of that.

**Mr. Stanbury:** Are you aware of why it has not been as available as you think it should be?

**Dr. Fraser:** My impression is that one cannot sterilize because of a risk to the child. I could be quite wrong on this because I have not looked up the laws.

**Mr. Stanbury:** A risk to whom?

**Dr. Fraser:** A risk to the unborn child. Sterilization can only be utilized to protect the mother's health.

**Mr. Stanbury:** Is this a matter of law or of medical ethics?

**Dr. Fraser:** I have not looked up the law. It was my impression that it was law and that they...

**Mr. Stanbury:** When your colleagues from the Medical Association were here they made a passing reference to sterilization as being a provincial problem. Are you aware of any legal restrictions, or of what they are?

**Mr. Brand:** Mr. Chairman, there are many doctors who have been sued by patients after undergoing the sterilization treatment. For this reason mainly, doctors are reluctant.

**Mr. Stanbury:** As far as I have been able to determine there is nothing we can do about changing the law.

**Mr. Brand:** Why not?

**Mr. Stanbury:** Because there is no law which forbids it now.

**The Chairman:** Perhaps we could delegate Mr. Stanbury, as a subcommittee of one, to investigate.

**Mr. Stanbury:** So many witnesses make reference to this that I think it is extremely important. If doctors have been using the provision of the Criminal Code with respect to birth control as an excuse not to sterilize people, I think it is perhaps stretching a point; however, that will probably be corrected soon. As far as our hearings here have been concerned, no one has suggested the change of any federal law which now bears on sterilization.

**The Chairman:** It is my understanding that the problems of the medical profession concerning sterilization are not related at all to the Criminal Code, but the risk of civil action. No doctor has ever been charged with criminal action as the result of a sterilization operation.

**Mr. Stanbury:** Dr. Fraser's missionary work then, in trying to encourage more sterilization, is not with legislatures, but with his profession.

**Dr. Fraser:** I believe there are various religious objections in some cases.

**Mr. Allmand:** Should we not have the Steering Committee give an opinion on that so we will know where we are going?

**The Chairman:** It is unfortunate that this question did not come up when the Bar Association were in front of us. I do not think we ever asked their opinion on this.

**Mr. Forrestall:** It is unfortunate that we do not have a staff of experts with us.

**The Chairman:** We have one today and I think we are off his field of reference somewhat.

**An hon. Member:** Yes we are.

**Mr. Allmand:** Perhaps we could put that seriously to the Steering Committee for an opinion as to exactly why sterilization is difficult. Is it legal, is it civil law, is it medical ethics? What is it?

**The Chairman:** We will consider it, but in reality sterilization is not in our terms of reference.

**Mr. Stanbury:** Mr. Chairman, it may not be within our terms of reference but so many witnesses have suggested that, although they may be in favour of wider abortion laws, they feel the simpler solution, or at least a supplementary solution—perhaps an addition—would be a more ready access to sterilization. I think it must affect our thinking about changes in the law of abortion. Personally I would like to know what the situation is with respect to sterilization before making a decision on the subject of abortion.

**Mr. Cowan:** Various people wanted to discuss satellites upstairs in the Broadcasting Committee this morning and they were told by the Chairman (Mr. Stanbury) that they were getting away from the bill.

**Mr. Stanbury:** Yes, but I am not...

**The Chairman:** You are getting away from the Bill. Mr. Knowles.

**Mr. Knowles:** I agree with what you said here.

**Mrs. MacInnis (Vancouver-Kingsway):** Let us move that there be a request to the Steering Committee to go into this.

**The Chairman:** Leave it with me as Chairman and I will look into it. I have the feeling I should ask Mr. Stanbury. He keeps bringing this subject up and as a lawyer I think we should ask him to look into it.

**Mr. Stanbury:** If you would like to retain me I will go back into the practice of law for this purpose, but it might be a conflict of interests.

**An hon. Member:** With Crown funds?

**Mr. Knowles:** Something out of the contingency funds?

Mr. Chairman, what I wanted to bring out by questioning has, in fact, been brought out by Mr. Stanbury and Dr. Isabelle and perhaps by others as well. It is hard just to say "pass" so let me say it briefly. I take it, Dr. Fraser, that you have made it clear that while you favour the possibility of avoiding certain deformed persons coming into the world, you would keep it on a voluntary basis. You are not suggesting at any point, no matter what the condition, that an abortion or any other such avoidance should be compulsory.

• (12:50 p.m.)

**Dr. Fraser:** You are not getting into the question of sterilizing a retarded person I hope? Apart from that, my answer would be "yes," I would keep it voluntary.

**Mr. Knowles:** Certainly anything in this field should be completely voluntary.

**Dr. Fraser:** Absolutely, yes.

**Mr. Knowles:** Though we may seem to talk about aborting, even though there is only a risk of one in four or one in two, even in that case, although the parents can be advised of the danger, the final decision is still to be made by them.

**Dr. Fraser:** Yes

**Mr. Knowles:** This would apply to all three things: birth control, sterilization and abortion. You would think that these things in such cases should be voluntary. In other words they should be available. We are not trying to force them on people. We would just make them available.

**Mr. O'Keefe:** They are being forced on me, Mr. Knowles.

**Mr. Knowles:** That is guesswork or utter nonsense.

**Mr. O'Keefe:** Well, it is true.

**Mr. Knowles:** Both Mr. O'Keefe's views and mine are quite well known, doctor. One other point...

**Dr. Fraser:** I do not think it should be readily available to anyone, like aspirin...

**Mr. Knowles:** Thank you, I am glad you made that clear. I was not meaning that but I meant that the legislation should be permissive rather than compulsory. The terms of the legislation would be another subject.

That leads me to the question that was asked earlier as to the number of people, the number of potential births that are likely to be performed on for genetic reasons. There were opinions as to whether that number was large or small. Would it be fair to say that in your view it does not matter, whether it is large or small? Whenever there are such cases, as you have described to us this morning, do you feel that the legislation should permit the doctors or the appropriate people to recommend termination?

**Dr. Fraser:** Yes.

**Mr. Enns:** There is not too much left to ask that I had intended to but I wanted to ask Dr. Fraser if he has had dealings with mothers who had been granted therapeutic abortions in Canada? Would you also have had any dealings with mothers who had gone outside of Canada to have this operation?

**Dr. Fraser:** None of the mothers I have been concerned with have done that, though I did say that I suggested this at one point.

**Mr. Enns:** Have you had dealings with mothers who have subjected themselves to illegal abortion?

**Dr. Fraser:** Well, I quoted you a case.

**Mr. Enns:** Yes, of course. In these cases, I believe you did not say or did not really bring out whether there was any pang of guilt or great self-reproach in that a request for an abortion had been made or that they had, in fact, secured abortion. Is this correct?

**Dr. Fraser:** So far as one can tell from what the mothers have said, yes, there were no feelings of guilt.

**Mr. Enns:** Yes, well, it was given to us by previous witnesses that it is a natural role of the woman to become a mother and nurture her child with love and care and that the termination of this process could induce feelings of guilt and self-reproach, etc. But I know from my own dealings with people that this is not necessarily always the case given good adequate reason in their own minds that they have done the right and proper thing. So this is not the ipso facto result of an abortion, the feelings of guilt or self-reproach.

**Dr. Fraser:** Absolutely not. There is a fairly large and well-controlled study on this point if I could draw the Committee's attention to it.

**Mr. Enns:** I would appreciate the reference if you have the details.

**Dr. Fraser:** It was a study in Denmark. Could I give it to you afterwards?

**Mr. Enns:** Could you give us the title and the...

**Mr. Knowles:** Yes, for the record, Mr. Chairman.

**Dr. Fraser:** I am sorry but I did not dig it out this morning.

**Mrs. MacInnis:** I wonder if this is not what the AMCAL people gave us. They gave us copious material about Denmark.

**Mr. Enns:** I can get it from you later, doctor. Would you ever call the termination of a pregnancy murder?

**Dr. Fraser:** I do not believe that that is a genetically relevant question.

**Mr. Cowan:** You have already said that they have rights, from conception though.

**The Chairman:** Potential human beings.

**Mr. Cowan:** From conception.

**Mr. Enns:** Yes, I just wanted to say that I think your answers, your basic evidence and your case histories have been very helpful to myself and, I am sure, to most other members. I wanted to thank you, on my own behalf, for being here.

**Mr. Forrestall:** Dr. Fraser said, at one point, and without attribution, I hope, on the part of the press, that there probably are only two or three genetic experts in Canada. Is this the result of a lack of medical research funds?

**Dr. Fraser:** No, it is not, sir. And I should qualify that. I said two or three people qualified in both medicine and genetics.

**Mr. Forrestall:** Genetics is not medicine?

**Dr. Fraser:** No, there is a large body of geneticists working on everything from viruses to agricultural genetics.

**Mr. Forrestall:** Research chemists.

**Dr. Fraser:** Relatively few who are trained in genetics are working in medicine. But this situation is rapidly improving and I do not think that it is due to a lack of research funds.

**The Chairman:** Should we say people who are trained and hold degrees in both medicine and genetics?

**Dr. Fraser:** That would be easier to specify.

**Mr. Brand:** Did I hear him say that there is no lack or no shortage of research funds?

**Dr. Fraser:** I said that this particular problem was not due to a shortage of research funds.

**Mr. Forrestall:** The shortage of experts is not due to a lack of research funds. You made that generally and I just qualified it. If, for example, medical university students decided that there was some research—perhaps because of some original work that they had done—that needed pursuing, funds would be accessible to them. Would this be a general...

**Dr. Fraser:** If the idea was a good one, yes.

**Mr. Forrestall:** What is your opinion, doctor, of the validity of many of the statistics that this Committee and other interested groups in Canada are using today on this question of abortion? And I refer to illegal abortion.

**Dr. Fraser:** I have no opinion on this.

**Mr. Forrestall:** I think, perhaps, if you had had some comments about that I would have pursued it. For the time being I will leave that and also add my thanks for your time.

**The Chairman:** Before we pass to Mr. Cowan, that reference was Ekblad M., Induced Abortion on Psychiatric Grounds—A Follow-up Study of 479 women, *Acta Psychiatrica, Neurologica Scandinavia Supplement* 99,234, 1955.

**Mr. Cowan:** What was the purpose of those pictures shown this morning? Are these children who were born after abortions were refused? Or what was the purpose of those pictures?

**Dr. Fraser:** The purpose was to give some reality to the conditions that I was about to talk on, that is, conditions where the question of termination of pregnancy might come up.

**Mr. Cowan:** Were you trying to lead us to believe that if abortion were allowed in Canada that these children, in the pictures, would not have been born?

**Dr. Fraser:** Some of them would not have been born. I really meant to direct the implications of this to the individual family, rather than to public health.

• (1:00 p.m.)

**Mr. Cowan:** I have the same question to ask you about the cases you were reciting verbally about he was this, and he was that, with the idea that if we had had a law on abortion some of those cases would have been aborted that you spoke of verbally, after the pictures were discussed. If there is,

in fact, a connection between abortions and those pictures and cases that you are bringing up, I wish you would tell me what the connection is.

**Dr. Fraser:** My intention, sir, was to try and make more real to you what the implications of a pregnancy might be to parents who had already had a child with conditions such as this, and who were facing the prospect of bearing and raising another such child. One cannot really understand the situation without having some idea of what the conditions are.

**Mr. Cowan:** Getting back to haemophilia, you said the possibilities of a haemophilic being born of a haemophilic carrier was one in four I believe. Was it one in four?

**Dr. Fraser:** Yes.

**Mr. Cowan:** Why did you not put pictures of three healthy babies on the screen for each one of the haemophilia babies? That would have shown that there was an opportunity of three out of four healthy children being born.

**Dr. Fraser:** I showed you pedigrees in which you could see the distribution.

**Mr. Cowan:** You can count them up. Healthy babies were in the majority, as shown in the whites. You did not make any reference to that. I had to count them on the screen. But I do not doubt that your figures are correct. You talk about one in four being haemophilia. One of the hon. members on the other side referred to the use of the adjective "grave" chance that some child would be born defective. Dr. Harley in quoting from one of the bills that we are discussing referred to "substantial risk" of something, and another one of the bills had in it "the high probability". Do you consider as grave, high, or substantial, the haemophilia figure of one in four?

**Dr. Fraser:** For haemophilia, I would consider that substantial, yes, sir.

**Mr. Cowan:** What about the other possible defects in the child; what do you call high, grave, or substantial, if one in four is high in haemophilia?

**Dr. Fraser:** It is very hard to put down specific figures for any particular condition. One would also have to take into account the family situation, whether they had more children or not, and so on.

**Mr. Cowan:** I thought you told Mrs. MacInnis that you had not considered that aspect of the field. She asked you about the effect on the family already in being, if another child was born. She was driving at the social-economic side, and I thought you said you had not considered that matter.

**Dr. Fraser:** I consider it very deeply with relation to the specific family that I am counseling; I said I had not considered the idea of making this a consideration in any legislation.

**Mr. Cowan:** Well, I thank you for that.

**The Chairman:** Could I interpose? As far as the pictures are concerned, maybe I should explain to the Committee that Dr. Fraser phoned me and said that he had been checking our minutes and there were often references to certain disabilities and he offered to bring slides if we wished to see them, and it was I who made the arrangements for the slides.

**Mr. Enns:** Mr. Chairman, I should commend you because all of us have seen millions of healthy children, but the specific deformities that have been discussed at this Committee have never been so graphically illustrated as we have had them done today. I, for one, am appreciative of the witness for having brought them forward.

**Mr. Cowan:** You had a child on the screen, and you referred to his condition as a form of dwarfism. I do not know whether you consider this something reprehensible and something to be avoided in the quality race that certain people are trying to build up, but would you not call Lord Beaverbrook a form of dwarfism?

**Dr. Fraser:** I am not aware of his exact height, sir; I do not think I would though.

**Mr. Cowan:** Well, those who are familiar with him, and knew him well, would state that he was a "form of dwarfism"—that was the expression you used, "form of dwarfism", when you had this picture on the screen. The intimation is that he should not have been born?

**Mr. Brand:** I do not think that that is correct, in a medical sense, of Lord Beaverbrook.

**The Chairman:** I beg your pardon?

**Dr. Fraser:** No.

**Mr. Brand:** I do not believe that is correct in the medical sense of dwarfism.

**Mr. Cowan:** Well, Dr. Fraser used the expression "form of dwarfism".

**Mr. Brand:** He used in the medical sense rather than in the sense of looking at the size of a person.

**An hon. Member:** Would you clarify that?

**Mr. Brand:** You would indicate certain deformities in the . . .

**The Chairman:** Perhaps we should mention that there is one form of dwarfism medically called an achondroplasty, which is really just a normal body but with small extremities. Perhaps Dr. Fraser would comment on that type of dwarfism.

**Dr. Fraser:** Firstly, I commented on the form that I showed you and said it was a form of dwarfism. I added that it had associated with it, cataracts, congenital heart disease, and various deformities of the hips, that make it a serious and handicapping condition; whereas, simple reduction in stature I would not put in this category. So, I have no objection to Lord Beaverbrook having been born.

**Mr. Cowan:** Neither have I. I was going to ask this question, sir: In these pictures that you have here, these children have been born; they've already been born and these defects have occurred in their lives. Should they have been murdered before they were born, or would you favour murdering them after you have seen the type of child they are when they are born?

**Dr. Fraser:** I do not think that is a proper question.

**Mr. Cowan:** Well, in the picture cases you saw the results after birth. I am just asking you about abortion. Would you have favoured murdering them before they were born?

**Dr. Fraser:** I think I already suggested that I would decline to answer a question using the word "murder".

**Mr. Cowan:** I know several people in this world who are still living, and who were children with me, who were born with one arm. Some of them are mothers, and some of them are fathers today. You had a child here on the screen with a stump of an arm. I just would ask you whether the fact that they are

born without four extremities would mean that they should not have been born? You were showing us some horrible examples of something, I am not exactly sure of what the something was, but I know these people of whom I speak as fine people, fine Canadians, and they have children raising fine families; they do not have all four extremities.

**Dr. Fraser:** I think it would have been much better if the children of those parents had been born without their defect. Perhaps when you take the long view of it, they would have been willing to swap the good things that these people have admittedly...

**Mr. Cowan:** Admittedly.

**Dr. Fraser:** Of course they have good features to them. It is very difficult to get an honest answer to the question from such people as to whether they would rather not have been born. But I think that in view of the grief and hardship and expense and sorrow that these children cause and the fact that there is no lack of healthy babies needing care and support, that at the time when a decision could have been made to terminate the pregnancy very early, it is a pity that the decision was not made.

**Mr. Knowles:** You mean that they did have the chance to make the decision.

**Dr. Fraser:** That is a better way of stating it, yes.

**Mr. Cowan:** Mr. Chairman, I would like to advise the witness that one of the ladies that I am speaking of, who was born without one arm, was the middle child in a family of seven. I do not know just what you mean when you say that the chance of her being born with only three extremities could have been foreseen. There were three children ahead of her perfectly normal in every way; as far as I am concerned this girl is perfectly normal too, but she lacks one arm.

**Dr. Fraser:** I agree there are children born deformed for non-genetic reasons, or for genetic reasons that one cannot foresee. But there are also genetic situations one can foresee and can make a choice about it.

**Mr. Cowan:** Well, I would like to thank you for having felt so strongly on this matter to come from Montreal and make your thoughts known to us. I am sure they will be helpful to us, and I am very glad you came up. I thank the Chairman for his all-embracing consideration of all the facets of this

question when he asked you to bring the pictures. As I say, I still cannot see the connection between the pictures and the question of abortion which we are considering.

• (1:10 p.m.)

**Mr. Knowles:** Mr. Chairman, with regard to the pictures, or more particularly, with regard to the diagrams, could they be reproduced in our minutes? Even Mr. Cowan did not mind the diagrams because he could count the white spots. But apart from the facetiousness, it seemed to me that there was usefulness to those diagrams, and that we might want their being put in our record—not the photographs, there are too many difficulties about that.

**The Chairman:** You mean the family trees?

**Mr. Knowles:** Yes.

**Dr. Fraser:** I could send you photostats.

**Mr. Knowles:** I would suggest that they be included in today's record.

**The Chairman:** It will mean a little delay but that is fine.

**Mr. Brand:** May I ask you one thing, Mr. Chairman. This is not a question for Dr. Fraser but, in view of some of the evidence we have had, would you have the steering Committee consider calling a pediatrician and perhaps a representative of the Retarded Children's Association of CARC or the Council for Crippled Children and Adults before the Committee for their views to present the other side?

**The Chairman:** Fine.

**Mr. Brand:** At the last meeting, Mr. Chairman, I mentioned a letter I had received from a professor of a certain university—since I do not have his permission I would not like to identify him at this time—but I would like to read the letter into the record because I think its importance is something we should look at. With the permission of the Committee I would like to do this. It is very brief.

**The Chairman:** But you are not going to identify the letter?

**Mr. Brand:** I will give you a copy of the letter; however, in view of the fact that the press is present, I would not like to divulge the author's name without his permission. I will certainly give it to the Committee.

**The Chairman:** Does the Committee have any objection to this?

**Mr. Knowles:** On what subject?

**Mr. Brand:** Abortion.

**The Chairman:** Proceed.

**Mr. Brand:** It is from a professor of the Department of Physiology and Pharmacology of a prominent Canadian university, and it reads:

I am writing to you as a member of the committee that is considering the proposed abortion bill. I am uneasy about the bill because I have seen no indication in newspaper reports that the committee has taken into account the possible medical consequences of abortion. This may be an important, but neglected, topic for investigation.

Many months ago I read a pamphlet called "Abortion and Public Policy", by Russell B. Shaw. This is a 1966 publication of the Family Life Bureau, National Catholic Welfare Conference, 1312 Massachusetts Ave., N.W., Washington, D.C. 20005.

In his survey of the abortion situation in various countries, Shaw dealt with Hungary. Since 1956, Hungary has had very liberal abortion laws to the point where some fear that they will wipe themselves out as a nation. Shaw quotes a Hungarian weekly to the effect that they were performing 647 abortions *per day* in the state hospitals in a recent year. Shaw then makes some most interesting statements. Apparently the Hungarian experience, based presumably upon millions of case histories, indicates that in women who have had one or more abortions, there is a higher incidence

- (a) of sterility in the woman following the operation, or
- (b) of spontaneous abortion in a subsequent pregnancy, or
- (c) of premature births (incidence doubled) in subsequent pregnancies, or
- (d) of mentally retarded children in subsequent pregnancies (more than half are premature).

He goes on to point out that

I have written to the Family Life Bureau in an attempt to locate Shaw and to

obtain the sources of his information. Is there validity in these statements? They certainly should be checked and compared with the experience in some other countries such as Sweden, Poland and Japan that have large numbers of legal abortions and therefore have large numbers of case histories.

It is usually assumed that the competent removal of an embryo or of a fetus is as innocuous, from the medical point of view, as the removal of tonsils—or less so. If the Hungarian figures are valid, they give a new medical dimension to the discussion of abortion. These statements suggest that abortion, as performed in Hungary, have unexpected long-term effects. Discussions on abortion are usually based upon moral, ethical and sociological grounds; possibly the medical and health aspects of these operations should be considered much more closely.

Personally, he goes on to say he favours abortion to a degree but he does point out in his letter some sort of evidence we certainly have not received before this Committee. I wonder whether or not the Committee should attempt to obtain such information from the The Family Life Bureau in Washington.

**The Chairman:** Even there it sounds as if it is a second hand report from Hungary.

**Mr. Brand:** Yes, but I think you will notice that the doctor here did say that he attempted to locate the sources of his information. Certainly, if there is any validity in some of the statements he has made, it should have a profound effect upon the deliberations of this Committee and for this reason I thought it wise to bring it before the general Committee for discussion. I will give you a copy of this letter if you wish.

**The Chairman:** Perhaps, if you have been in touch with the gentleman, he is going to write to you further about finding the sources of this information.

**Mr. O'Keefe:** If this Committee agrees to just about abortion on request, or something very near it and that kind of a bill becomes law, what happens to your profession or all Canadian scientists' attempts to solve the medical mother-baby problems? What happens to research? What happens if a bill that has been suggested, becomes law?

**Dr. Fraser:** I am afraid I do not understand the question.

**Mr. O'Keefe:** I will ask it again. If this Committee agrees to just about abortion on request or something very near abortion on request, and that kind of a bill becomes law, what happens then to your profession, to you, as a doctor, or all Canadian scientists' attempts to solve the problems of the mother-baby?

**Dr. Fraser:** Do you mean is obstetrical and pediatric research going to cease because all mothers get all their pregnancies terminated?

**Mr. O'Keefe:** Yes. I am asking you that question.

**Dr. Fraser:** I am not at all worried about this possibility, sir.

**Mr. O'Keefe:** You think it will still go on?

**Dr. Fraser:** Right.

**Mr. O'Keefe:** I have just one last question. Money was mentioned here so I...

**The Chairman:** Is what you mean, will pregnancies still go on?

**Mr. O'Keefe:** Mr. Chairman, money was introduced this morning so I am not introducing the subject. Dr. Fraser could you tell the Committee how much a legal abortion would cost a parent in your area, or the average cost?

**Dr. Fraser:** I have no idea. I have never tried to investigate this question.

**Mr. O'Keefe:** Thank you, Mr. Chairman.

**The Chairman:** I should say that Dr. Fraser, of course, is a geneticist, not obstetrician-gynaecologist.

**Mr. Knowles:** Can I move a vote of thanks and adjournment?

**The Chairman:** As Chairman, I would also like to thank Dr. Fraser for his presentation of slides and information to the Committee.

The meeting is adjourned until Thursday when we will have two meetings; one in the morning as usual at eleven o'clock and one in the evening to see the National Film Board presentation which is in camera, for the benefit of the press.

## APPENDIX "M"

## BRIEF

Submitted by the Catholic Hospital  
Conference of Manitoba to the  
Standing Committee of the House of  
Commons on Health and Welfare

ON THE MATTER OF  
ABORTION

November 1967

Mr. Chairman; Honourable Members of the  
House of Commons.

The Catholic Hospital Conference of Manitoba was established in order to safeguard Catholic principles involved in the practice of medicine in our own Catholic Hospitals.

Catholic Hospitals, like all other hospitals for that matter, are deeply concerned with the preservation of human life. It is for this reason that this Conference is greatly alarmed at the proposed liberalization of the Abortion Laws as they now exist in Canada.

By definition, abortion is the deliberate expulsion of a fetus from its mother's womb before it is capable of living outside the womb. Even if other definitions are used, the death of the fetus is always the result of abortion. For this reason it has always been the teaching of the Catholic Church that intentional abortion is always seriously wrong. The reason behind this teaching is that intentional abortion is a form of murder, the killing of an innocent person, and this may never be done intentionally for any reason whatever. It is part of the church's interpretation of the divine commandment: "Thou shalt not kill".

There was a time in the life of the church when even Scientists were not sure whether specifically human life began at the first moment of conception or only afterwards. They were unaware of the full biological facts of the union of the male cell, the sperm, with the female ovum, into a new being with specifically human characteristics. But even in that time of doubt about the presence of a human soul, the church taught that abortion was seriously wrong at any stage of pregnancy because it was the frustrating of the beginnings of human life and so still against

the command of the Creator. Although the church has never defined infallibly the time of the beginning of human life, there should be no doubt in the present state of our knowledge that life begins at the first moment of biological conception.

The "International Code of Medical Ethics" adopted by the World Medical Association in London in 1949 implies the same when it states as a duty of doctors: "A doctor must always bear in mind the importance of preserving human life from the time of conception until death".

This brief will not make any comment on the proposed changes in the criminal code which have regard to the information, advertisement and sales of Abortifacts. This brief will however comment on the proposed changes regarding grounds to cases where "the termination of such pregnancy is desirable in order to preserve the life or the physical health of the pregnant woman". It sets a number of restrictions about the practice: the pregnant woman must request the abortion; it must be performed by a duly qualified medical practitioner who must consult the hospital's abortion committee, or if there is no such committee, one other qualified medical practitioner; if the woman is married, her husband must consent if he is "reasonably available"; if the woman is unmarried and under the age of eighteen, one of her parents or guardians must give consent if they are "readily available".

The vagueness of the expression "is desirable" is criticized on the grounds that it leaves very wide discretionary powers to the doctor. Abortion directly violates the rights of the unborn fetus. Also, to allow freedom here could harm the common good far more seriously than do any evils arising from the present restrictions. The statistical, medical,

legal and psychological arguments against abortion still carry weight with a very large number of Canadians. Even should a majority of the people wish easier abortion laws, this Conference feels that it should continue its stand to defend the helpless victims' rights and should uphold the sanctity of life against any form of aggression.

Rather than easing laws of abortion the Government should gather and disseminate information on the evils of abortion so as to help form public opinion. But positive measures are also needed to help prevent abortions.

Many of the arguments in favor of abortion are founded on sensationalism and emotionalism. We feel that it is definitely beyond the power of any human decision to terminate the life of an unborn child and further that the life present in the mother's womb should be safeguarded from direct attack. John XXIII in both *Mater and Magistra* and *Pacem in Terris* strongly proclaimed the right to life of all men, asserting that human life is saved because it requires from its inception the creative act of God. Paul VI follows the same trend as his predecessor, in stressing human rights and emphasizes the responsibility of doctors to protect human life, even from conception.

This emphasis on human life and dignity was again taken up by Vatican II. In the Constitution on the Church in the Modern World (No. 51) it explained in greater detail the Church's teaching on the existence and destiny of man. "Therefore, from the moment of conception, life must be guarded with the greatest care, while abortions and infanticide are unspeakable crimes. Such is the judgement of the Church on abortion".

Abortion means terminating the life of an unborn child who has the potentiality of becoming a human person and of taking a place in the world. It brings to an end, without mercy, the existence and destiny of a developing human being. The decision to ter-

minate this life is made by someone other than the one whose life is ended and without his consent.

If the government allows this, even more, if it supports and promotes it legally, serious obstacles are placed in the way of safeguarding human dignity and the right of individuals.

The liberalization of abortion laws may readily lead to greater and greater lack of respect for life.

Human life is sacred and society must protect it. Divine law, only, can fix the moral evaluation of abortion.

The abuses of illegal abortions, serious though they be, could be outweighed by the greater evils resulting from a change in the law. As statistical studies have shown in countries allowing easy legal abortion (e.g. Japan, Sweden, Hungary, Denmark, Poland, Bulgaria) such easy legal abortion has not solved the problem of criminal abortion and in at least four of these countries has been accompanied by an actual increase in illegal abortions. Finally, it has also been observed that once people accept the principle of life based on the choice of values of different lines or goods (as is done in abortion) there is no defence left against arguments favouring infanticide, killing of physical or mental defectives, destruction of the aged and the sick, etc.

In conclusion, where an attack is being made on a point of Catholic morality which happens also to be one of the underlying principles of our way of life and freedom, then we believe that means should be taken to defeat such an attack. And we feel that the proposed liberalized abortion laws do attack a basic principle—the right to life of an innocent human being.

In short the Catholic Hospital Conference of Manitoba is absolutely opposed to any form of liberalization of the present abortion laws.

APPENDIX "N"

THERAPEUTIC ABORTION

- I—Ten Year Review in a General Hospital
- II—Observations on Abortion
- III—Recommendations

H. Brody, M.D., F.R.C.S.(c)

THERAPEUTIC ABORTION

Part I—Ten Year Review  
in a General Hospital

Therapeutic abortion is an established operation in medical practice. What is far from established are the indications for this procedure. Even though a serious medical condition may complicate pregnancy modern medical therapy enables most mothers to carry through successfully without serious risk to mother or baby. Yet the incidence of therapeutic abortion on a world wide basis is increasing rapidly!

The reason for this is that when a case is considered it is tempered by moral, sociological and economic bias of physician, patient and society in the local that it takes place.

To carry a mother of five children through a sixth unplanned and unwanted pregnancy even though she has severe Diabetes may be a medical feat, but only in its narrowest sense. Physicians are not unaware nor unsympathetic of the hardships a case like this brings to all concerned. This remains a most disturbing aspect of therapeutic abortion today.

*Material and Methods:*

The Calgary General Hospital has a Therapeutic Abortion Committee which considers every case for therapeutic abortion. No therapeutic abortion can be carried out in the hospital without consent of this Committee. If approval is granted a consultation letter is signed by all members of the Committee and placed on the patients's chart.

This report covers the ten years between 1954 and 1963 inclusive when a total of 91 cases were considered by the Committee. 76 cases were approved, an incidence of 83.5%.

The terms of reference for therapeutic abortion, though not written, are understood to be a pregnancy which presents a serious threat to the life of the pregnant mother.

Eugenic reasons are considered on an individual basis.

During this ten year span there were 45,243 deliveries at the Calgary General Hospital making the incidence of therapeutic abortion to deliveries: of 1: 595.

Other series report variations in incidence from 1 to 76 to a low figure of 1 to 16,750. In the City of Calgary only the Calgary General Hospital carried out therapeutic abortion between 1954 and 1963. The total number of births in Calgary in the ten year interval studied was 85,634 which makes a ratio of therapeutic abortion to deliveries of 1:1127. This gives a better idea of the frequency of this procedure in a city of this size. (Approximately 200,000-250,000 during the years studied.)

*Age:*

Table number 1 shows the age distribution. The youngest patient was 13 and was aborted on psychiatric grounds. Over half the patients were between 30 and 40 years of age.

*Parity:*

Four records failed to show the parity anywhere on the patient's chart (see Table 2). Nine patients were nulliparous a percentage of 12.5%. These cases are summarized in Table 3. Of the nine cases only three had tubal ligation.

*Indications:*

The indications for carrying out therapeutic abortion are listed in Table 4. These figures correspond to other studies reported.

*Psychiatric:*

This category was the largest single group representing 18.4% of the total.

Just because the patient is pregnant and also has a psychiatric disorder does not negate psychiatric therapy with a subsequent

favorable outcome. It seems justifiable to state that only rarely is pregnancy by itself of sufficient psychiatric stress to the maternal well being to justify therapeutic abortion. Intensive psychiatric care can carry most cases through to term and possibly better the long term prognosis.

As organic diseases become more amenable to medical therapy the tendency is to look for a psychiatric consultant who will agree to therapeutic abortion. Very often it is a compassionate physician who sympathizes with, or even suggests to the patient the possibility of therapeutic abortion on mental grounds. Knowing "the sympathetic psychiatrist" can be very helpful. In the above series three patients were turned down on organic grounds but were subsequently approved for psychiatric reasons.

#### *Cardiac Disease:*

Eleven cases (14.5%) fell into this category. Eight were due to rheumatic valvular involvement, the remaining three had congenital cardiac disease. With the refined advances of cardiovascular surgery in the past fifteen years this category should diminish in numerical importance. It has been said that if the patient is seen early enough to consider therapeutic abortion then there is enough time to provide adequate medical or surgical cardiac therapy to carry through the pregnancy successfully.

#### *Feto-Genetic:*

Nine patients were aborted for fetal indications. Rubella was noted in seven cases. Five of these were done in 1957 when an epidemic of Rubella was present. One patient was aborted for repeated stillborns due to Rh iso-immunization and one lady had two previously deformed children.

#### *Neurological Disorders:*

There were eight patients in this category, 10.6% of the total group. Six had Multiple Sclerosis while the remaining two had a history of previous cerebro-vascular accidents. In the past four years only one case with Multiple Sclerosis was aborted.

#### *Hypertension:*

Eight cases (10.6%) were terminated because of hypertension. No patient has been aborted for this reason since 1960 demonstrating a better understanding of the effect of pregnancy on hypertension. One patient never had a blood pressure over 140/90

recorded on her chart. It would appear that, unless a fixed and high diastolic pressure is present, uncomplicated hypertension is not a valid reason for terminating pregnancy. Where hypertension exists with severe nephropathy and/or retinopathy then hypertension becomes a valid reason for considering therapeutic abortion.

#### *Renal:*

There were seven cases in this category. Three patients had nephritis, two had tuberculosis of the renal tract, one had polycystic kidneys and hypertension while one patient had recurrent stone formation.

#### *Miscellaneous:*

There were nineteen cases in this group representing 25% of the total. They are listed in Table 5. As is noted in Majury's study there were cases which "it is very difficult to understand why therapeutic abortion was agreed to". Of the group at least seven cases have little medical merit for the procedure and another four cases are in the dubious category.

#### *Cases Refused Therapeutic Abortion:*

Few studies document the outcome of cases which were refused therapeutic abortion. There were 16 cases in this category the ratio of cases turned down to those agreed upon for therapeutic abortion was approximately one in five. This compares favorably to Russell and Moore's study of one in three. It is interesting to note how these mothers fared in their pregnancy; as a group the prognosis was rather favorable for both mother and child.

No mothers died during pregnancy or delivery, however, one patient, case K with nephritis, died some six months post partum.

#### *Method:*

The method of therapeutic abortion is shown in Table 7. These figures are similarly found in other studies. It would seem far wiser to carry out most therapeutic abortions by curettage wherever possible. However, too often the patient is not evaluated until after the twelfth to fourteenth week of gestation.

#### *Morbidity:*

No surgical deaths occurred in the 76 patients who were aborted, however, 33 patients (43.5%) were morbid, according to temperature evaluation standards. This is a very high morbidity rate as compared to

some other series and points up the fact that therapeutic abortion is not without its risks.

DISCUSSION:

Most medical diseases which occur during pregnancy can today be managed by current therapeutic methods without serious risk to the mother. As medical science advances there becomes fewer genuine medical grounds for carrying out a therapeutic abortion on the basis that abortion is necessary to preserve the mother's life.

As a matter of fact many of the cases reviewed in this study cannot be justified on medical grounds alone in the light of present medical knowledge. Obviously extra medical factors were considered. However, most of the charts failed to record these paramedical reasons and in the cold light of retrospective analysis the reasons for therapeutic abortion appear flimsy.

TABLE 1  
AGE DISTRIBUTION IN 76 CASES OF THERAPEUTIC ABORTION

Age Span	Number of Cases	Percentage
		%
Under 20.....	5	6.6
20 - 30.....	23	30.3
30 - 40.....	43	56.5
Over 40.....	5	6.6

TABLE 2  
PARITY OF 76 CASES OF THERAPEUTIC ABORTION

Parity	Number of Cases
0.....	9
1.....	20
2.....	14
3.....	15
4.....	7
Over 4.....	7
	72
Not recorded on history.....	4
Total.....	76

TABLE 3  
NINE CASES OF NULIPARITY

Case No.	Age	Reason for Therapeutic Abortion	Tubal Ligation
1	25	Two previous bouts of intracranial thrombosis.....	Yes
7	18	Rheumatic valvular disease.....	No
12	25	Congenital Cyanotic disease.....	No
24	13	Borderline schizophrenia.....	No
29	33	Severe diabetes with renal involvement.....	Yes
30	17	Intra-atrial septal defect.....	No
41	34	Tuberculosis of remaining kidney.	Yes
53	19	Maternal rubella first trimester..	No
76	21	Malignant hypertension.....	No

TABLE 4  
INDICATIONS FOR THERAPEUTIC ABORTION IN 76 CASES

Indication	Number	Percent
		%
Psychiatric.....	14	18.5
Cardiac.....	11	14.5
Fetogenetic.....	9	11.9
Neurologic.....	8	10.6
Hypertensive.....	8	10.6
Renal.....	7	9.2
Miscellaneous.....	19	25.1
Total.....	76	

TABLE 5  
MISCELLANEOUS INDICATIONS FOR THERAPEUTIC ABORTION

Indications	Number
Cancer—	
Melanosarcoma.....	2
Hodgkins.....	2
Leukemia.....	1
Thyroid.....	1
Cervix.....	1
	7
Diabetes.....	4
Tuberculosis.....	3
Hyperemesis gravidarum.....	2
Sprue.....	1
Arthritis.....	1
Severe pelvic contracture.....	1
Total.....	19

TABLE 7  
METHOD OF CARRYING OUT THERAPEUTIC ABORTION—  
76 CASES

Method	Number of Cases
Abdominal hysterotomy and tubal ligation.	40
Abdominal hysterotomy.....	6
Curettage.....	18
Curettage plus tubal ligation.....	6
Hysterectomy.....	3
Attempted curettage with perforation of uterus followed by hysterotomy and tubal ligation.....	1
Failed curettage with subsequent passage of macerated fetus.....	1
Dilatation of cervix and Pitocin drip.....	1

Part II—Observations on Abortion

There are many facets to therapeutic abortion. Perhaps some personal observations might be explored through posing two questions and commenting upon them.

A—What is current thought regarding abortion as expressed by our society?

B—Who seeks therapeutic abortion today and how are these cases being considered.

A—Current Thought

In the United States many individual states are contemplating changes in therapeutic abortion laws. Some have even enacted so-called liberalized abortion laws. In the Scandanavian and Eastern European countries the indication for therapeutic abortion are fairly broad. In Japan the number of therapeutic abortions equals the number of deliveries in any given years. In other words therapeutic abortion is being used in some parts of the world as a method of birth control.

There seems to be a concerted effort in Canada today to re-assess the legal position of therapeutic abortion. Groups are pressing for changes in legislation which would make therapeutic abortion legal for various reasons.

Why are there pressures to broaden the indications? Basically it is because our society is changing and differences in social and sexual attitudes have occurred and are continuing to occur. The question being asked is can children born to physically well but emo-

tionally crippled parents be expected to develop normally and to lead happy and productive lives.

What is the woman's point of view in relation to abortion? What about the position that life is destroyed? Generally woman does not regard the embryo in the early months as a living entity and she therefore views abortion in the first three months of pregnancy as an extension of birth control. How often have we (as physicians) been asked by a desperate patient who is late with her menses to "please give me something to start my period", when she knows full well that an early pregnancy may be present.

Helen Deutsch in her classic study has stated that "women have the right to achieve or renounce motherhood and they assume this right emotionally whether it is legal or not".

Do we really understand that the woman who seeks an abortion does so because pregnancy places upon her an untenable socioeconomic and psychologic burden. She is desperate and willing to flaunt so-called mores and existing laws.

What are we teaching medical students today? Medical education is turning from its pre-occupation with established disease and concerning itself more with the prevention of illness and the promotion of good health. Within this context the broadening aspects of therapeutic abortion become cogent.

B—Who Seeks Therapeutic Abortion Today:

Most women desiring an abortion are married and have children and most of these women have strong feelings about ending a pregnancy and find the thought of an unwanted pregnancy financially punishing and emotionally exhausting. It has been shown by numerous studies that therapeutic abortion is performed at least five times more often in women in the upper class compared to the lower socio-economic classes.

In the United States a survey by Gebhard found 10% of the white unmarried population in the colleges or beyond became prematurely premaritally pregnant and nearly 95% of these pregnancies ended in abortion. He also reported that 22% of all married women had an induced abortion at least once by the time they had reached the age of 45.

The incidence of abortion is about 10-15% of deliveries and it is estimated that fully

half of these are induced. Only a handful of therapeutic abortions are done in hospitals. In Alberta less than 100 were done by therapeutic abortion committees in 1966. On the other hand based on over 30,000 deliveries in the province in 1966 this would mean that there were probably in the neighborhood of 2,000 criminal abortions. It would appear that if one has affluence and money that abortion can be procured and in fact is being procured.

The law does not acknowledge abortion as justified today and I would suggest that there appears to be a gross disparity between the practice of woman and the law which is supposedly designed for her protection and well being.

### Part III—Recommendations

Obviously the best approach out of the dilemma of therapeutic abortion is one of prevention. One logical answer therefore would be the application of contraceptive methods to all sexually active women of any age. To this end our efforts have not been co-ordinated, enthusiastic or vigorous enough.

As noted before changes in Canadian law in respect to therapeutic abortion are presently being considered. If these recommendations are enacted into law they will form the basis of so-called liberalized abortion laws. As I understand it three basic reasons are seriously being considered. Pregnancy may be terminated if it can be shown that continuation of pregnancy will result in:

- 1—Serious risk to maternal life.
- 2—Serious risk of foetal malformation.
- 3—Humanitarian reasons—rape or incest.

Using these three criteria in the series of cases reviewed in Part I of this study I would estimate that not more than 10-15% of cases would be acceptable for therapeutic abortion in the light of current medical knowledge. A recent study from New York State showed that strict adherence to liberalized abortion laws would cover less than 10% of the cases currently being done.

What these laws may do is give us a greater opportunity to find medical and psychiatric rationalizations but will still hide the fact that we are acting because of an overwhelming need to relieve a woman from an intolerable situation.

The presently contemplated laws attempt to get a compromise that says an abortion is beneficial to some by legally condoning it and harmful to others. However, the interpretation of these reform laws will still remain in the hands of physicians. As stated by Howell "the law will again be unclear and dishonest".

I would plead that we not jump to the support of so-called liberalized abortion laws without serious consideration of the problems that they may bring.

What reasonable alternatives are there? We might continue within the present framework of jurisdiction but the objections to this are many and have been enumerated by others.

Perhaps the answer is to enact legislation which states that "therapeutic abortion may be carried out in any accredited hospital by a duly constituted committee".

Let us look at this proposition. Would there be differences in cases accepted by various committees? Undoubtedly. But so will there be with liberalized abortion laws. There seems little doubt that "serious risk to maternal life" may be interpreted in different ways by different committees.

Should the law then be specific about the constitution and procedure of therapeutic abortion committees? To this question I would strongly answer in the affirmative. My recommendations for this specificity are as follows—

#### 1—Broad representation—

Each committee should be constituted from the Biological and Behavioral Sciences. From medicine a nucleus from the disciplines of Obstetrics, Psychiatry, and Family Practice should be represented. From Behavioral Sciences should come a sociologist, a psychologist, a social worker and a lawyer.

#### 2—Female representation—

Of those assigned to the committee a liberal sprinkling of female members should be represented. This is important to gain better insight and understanding of the problems that an unwanted pregnancy causes and means should be found to prevent similar cases from occurring.

#### 3—Background information—

Medical as well as emotional and socioeconomic factors should be gathered and evaluated. No person can sensibly be

assessed without knowing virtually everything about the person and their environment.

4—Personal interview—

The candidate for therapeutic abortion (and her husband where applicable) should be interviewed by the committee as a whole. Decisions reached on the basis of written documentation only are fraught with error and are depersonalizing

5—Individual judgement—

Each case should be judged individually on its own merits. No two cases are exactly alike and no fixed guidelines should therefore be set. The question that needs a critical answer is "will abortion really be therapeutic?"

6—Sympathetic hearing and follow-up—

Each case should be given a sympathetic hearing, and adequate support should be made available to help these people whether the case is accepted or denied. To a large degree this is therapy. The patient feels that there are others genuinely interested in her problem and willing to help her irrespective of the Committee's decision.

7—Follow up—

Each committee should seek follow-up information on the outcome of the patient and her situation whether therapeutic abortion is approved or denied. Constant review of this data will help therapeutic abortion committees to reach meaningful decisions and find ways to prevent unwanted pregnancies.

SUMMARY:

1—A ten year review of therapeutic abortion in a general hospital is documented.

2—Two broad questions in regard to abortion are raised and explored—

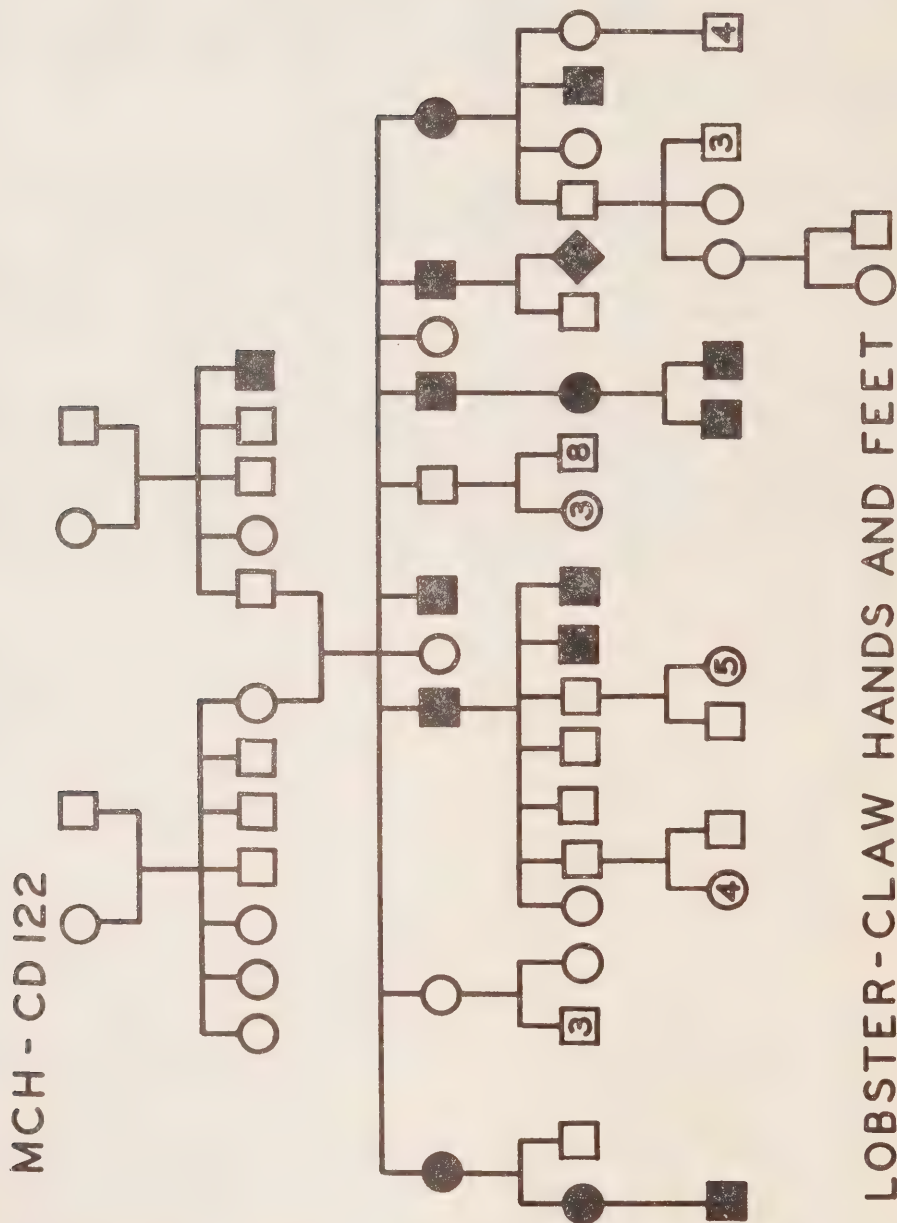
A—What is current thought regarding abortion as expressed by our society?

B—Who seeks abortion and how are these cases considered.

3—Recommendations for changing the law in respect to therapeutic abortion are made. It is suggested that the law might best serve society by saying in essence "Therapeutic abortion may be carried out in any accredited hospital with approval of a duly constituted committee". The specifics of constitution of such committees and procedures in processing applicants are enumerated.

## APPENDIX "O"

## DRAWING OF THE PEDIGREE OF THE FAMILY



## APPENDIX "P"

## THERAPEUTIC ABORTION

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## THERAPEUTIC ABORTION

A 12 year review at the Toronto General Hospital, 1954-1965

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*The 262 therapeutic abortions carried out at the Toronto General Hospital during the 12 year period (1954 to 1965) are presented. The over-all incidence of therapeutic abortions to deliveries was 1:172, or approximately 5.8 therapeutic abortions for every 1,000 deliveries. The indications for the therapeutic abortions are presented and discussed. The methods used in terminating the pregnancies, along with the subsequent morbidity and complications resulting therefrom, are outlined. The value of the Therapeutic Abortion Committee is discussed, and proposed changes to liberalize existing abortion statutes presented.*

ALTHOUGH the subject of therapeutic abortion and its related problems has always been of considerable interest to both the medical and legal professions, it is primarily during the past few years that this topic has received increasing scrutiny by these disciplines. Many legal bodies, both in the United States and Canada, have drafted proposed changes to liberalize existing archaic thera-

peutic abortion statutes to bring them closer to modern medical and social concepts and principles.

It is felt that a liberalized abortion statute, besides making therapeutic abortion voluntary and wholly removed from coercion, should contain the following clauses as reasonable grounds for terminating an existing pregnancy<sup>6</sup>:

1. To preserve the life and health of the mother.
2. To permit eugenic indications where there is a likelihood of a child being congenitally abnormal through inheritance or environmental factors.
3. To permit interruption where impregnation was accomplished through sex crime, proved rape, incest, or in the case of a female mentally incapable through youth or mental retardation to anticipate the potential results of coitus.

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*Presented by invitation at the Twenty-second Annual Meeting of the Society of Obstetricians and Gynaecologists of Canada, Jasper, Alberta, June 17-19, 1966.*

It is obvious that the only way to eliminate criminal abortion is to permit unrestricted legal abortion at the demand of any pregnant woman. Although such a goal would be most desirable, our society at this time would not condone such a radical approach to this problem. Perhaps in time socioeconomic factors will be acceptable grounds for therapeutic abortion in North America, as they are today in the Scandinavian countries.

In June of 1963, the Ontario Medical Association formed a Committee on Therapeutic Abortions and Sterilization, with the following objectives:

1. To establish a guide list of indications for therapeutic abortion and sterilization that

might be used as a uniform programme in the medical schools of this province.

2. To set up a simple uniform hospital organization for the assessment of these cases.

3. To review the legal aspects involved in carrying out these procedures and, if considered wise, to suggest changes in the statutes or the Ontario Hospital Act.

In view of the increasing interest in this subject, it was decided to review the cases of therapeutic abortion at the Toronto General Hospital during the 12 year period, 1954 to 1965. In 1964, a Therapeutic Abortion Committee was formed at the Toronto General

TABLE I

THERAPEUTIC ABORTIONS AND DELIVERIES, PUBLIC AND PRIVATE, TORONTO GENERAL HOSPITAL (1954-1965)

Year	Total therapeutic abortions	Public therapeutic abortions	Private therapeutic abortions	Total deliveries	Public deliveries	Private deliveries
1954.....	11	4	7	3,724	1,192	2,532
1955.....	16	1	15	3,676	1,187	2,489
1956.....	28	12	16	3,566	1,149	2,417
1957.....	11	5	6	3,597	1,241	2,356
1958.....	25	6	19	3,715	1,198	2,517
1959.....	12	2	10	3,952	1,160	2,792
1960.....	14	5	9	3,908	1,184	2,724
1961.....	25	9	16	3,800	1,221	2,579
1962.....	25	9	16	3,791	1,225	2,566
1963.....	22	5	17	3,769	1,280	2,489
1964.....	43	10	33	3,960	1,358	2,602
1965.....	30	13	17	3,727	1,299	2,428
Total.....	262	81	181	45,185	14,694	30,491

TABLE II

INCIDENCE OF THERAPEUTIC ABORTIONS AT TORONTO GENERAL HOSPITAL AND OTHER HOSPITALS

Center	Therapeutic abortions: Deliveries			Therapeutic abortions per 1,000 deliveries		
	Over-all	Public	Private	Over-all	Public	Private
Toronto General Hospital, 1954-1965.....	1 : 172	1 : 181	1 : 168	5.8	5.5	5.9
New York Mt. Sinai, 1953-1960.....	1 : 175	1 : 217	1 : 159	5.7	4.6	6.3
Beth Israel Hospital, 1956-1958.....	1 : 236			4.3		
University of Pennsylvania, 1953-1959.....	1 : 217			4.6		

Hospital, consisting of three members from the Department of Obstetrics and Gynaecology. All cases thought suitable for therapeutic abortion by members of the staff of the hospital or the Department of Obstetrics and Gynaecology were presented to the Committee with letters from consultants in the various specialties involved. A therapeutic abortion could only be carried out if approved by the Committee.

Like many hospitals which have had Therapeutic Abortion Committees for some time, the aim of establishing such a Committee was not only to prevent indiscriminate use of this procedure, but also to provide for abortions which were legally and medically advisable.<sup>12</sup>

Incidence

In the 12 year period (1954-1965) there were 262 therapeutic abortions carried out at the Toronto General Hospital. Of these, 81, approximately 31 per cent, were public cases, and 181, approximately 69 per cent, were private cases (Table I).

During this period there were 45,185 deliveries at the hospital. Of these, 14,694 were delivered on the public service, and 30,491 were private deliveries. The over-all incidence of therapeutic abortions to deliveries was therefore 1:172, or approximately 5.8 therapeutic abortions for every 1,000 deliveries (Table II). On the public service, the incidence was 1:181, approximately 5.5

therapeutic abortions for every 1,000 deliveries, while on the private service the incidence was 1:168, or approximately 5.9 therapeutic abortions for every 1,000 deliveries.

This incidence is very similar to the series from New York Mount Sinai Hospital<sup>6</sup> for the years 1953 to 1960, and can be compared to other hospitals and groups in various cities (Table II). In the Scandinavian countries, the incidence is about 45 per 1,000 live births<sup>4</sup>; in Switzerland about 67 per 1,000 live births, and in Chile<sup>4</sup> about 850 per 1,000 live births. In Japan there are probably more therapeutic abortions carried out than live births. The current rate in the United States as a whole is approximately 2.5 per thousand live births.<sup>5</sup>

Indications

The various indications for these therapeutic abortions, with the number of cases for each indication, and approximate percentages, are noted in Table III.

For the purposes of comparison, the statistics have been grouped so that they may be compared with those reported from New York Mount Sinai<sup>3</sup> and the University of Pennsylvania<sup>1</sup> (Table IV).

One half of the cases were terminated on psychiatric grounds or for rubella in the first trimester of pregnancy. The over-all incidence of psychiatric indications is approximately 35 per cent; however, during the past 4 years there were 55 out of 120 cases carried out on psychiatric grounds (46 per cent). The incidence of cases interrupted on psychiatric grounds is rising yearly.<sup>2, 6</sup> It is interesting to note that 29 patients, approximately 36 per cent of the public cases, and 61, approximately 34 per cent of the private cases, were terminated on psychiatric grounds. These statistics indicate that the same consideration is given to the patient, whether they be public or private. This is in contrast to most series, where there are far more therapeutic abortions carried out on psychiatric grounds on the private patients.

Nearly all of the pregnancies terminated for cardiovascular disease in the mother were cases of chronic rheumatic or congenital heart disease. The history in these cases showed a present or past failure during pregnancy, the lesions being inoperable or requiring openheart surgery. There were 2 cases of coronary artery disease with angina, and a history of previous myocardial infarction.

TABLE III  
INDICATIONS AND NUMBERS OF CASES OF THERAPEUTIC ABORTION AT TORONTO GENERAL HOSPITAL (1954-1965)

Indications	Number of cases	Approximate %
Psychiatric.....	90	34.4
Rubella.....	41	15.6
Cardiovascular disease.....	28	10.7
Renal disease.....	20	7.6
Diseases of nervous system....	16	6.2
Malignancies.....	11	4.2
Hypertension with previous or present severe toxemia.....	9	3.4
Metabolic endocrine diseases...	8	3.1
Pregnancy complications.....	7	2.7
Respiratory diseases.....	6	2.3
Tuberculosis.....	6	2.3
Otosclerosis.....	4	1.5
Gastrointestinal diseases.....	3	1.1
Eugenic.....	3	1.1
Others.....	10	3.8
Total.....	262	100

TABLE IV

INDICATIONS AND PERCENTAGE OF CASES OF THERAPEUTIC ABORTIONS AT TORONTO GENERAL HOSPITAL,  
NEW YORK MT. SINAI, AND UNIVERSITY OF PENNSYLVANIA HOSPITALS

Indications	New York Mt. Sinai, 1953-1960, 207 cases	University of Pennsylvania, 1953-1959, 84 cases	Toronto General, 1954-1965, 262 cases
	%	%	%
Psychiatric.....	42.5	37	34.4
Rubella and eugenic.....	24.6	22	16.7
Malignancy past or present.....	9.2	9	4.2
Cardiovascular.....	7.7	12	10.7
Renal.....	1.4	4	7.6
Tuberculosis.....	1.9	4	2.3
Miscellaneous.....	12.7	12	24.1

Some of the patients who had abortions subsequently underwent successful cardiac surgery and eventually carried a pregnancy to term uneventfully.

Most of the patients with a nervous system disorder had severe and disabling multiple sclerosis. There were a few cases of epilepsy, and one case of Friedrich's ataxia.

The malignancies included 4 cases of carcinoma of the cervix, 5 cases of carcinoma of the breast, and one case each of leukemia and a malignant thymoma.

The metabolic and endocrine group of cases were primarily class F diabetes with renal, cardiovascular, and eye complications. There was one case of Addison's disease, and one case of severe thyrotoxicosis. The pregnancy complications included 5 cases of total placenta previa, and 1 case of severe abruptio placentae in the midtrimester, and one case of a previous uterine rupture repaired per vaginam.

The indications under respiratory diseases included severe asthma, brochiectasis, and pulmonary hypertension. The gastrointestinal disorders were severe ulcerative colitis and regional ileitis.

Many cases included under psychiatric grounds had a eugenic consideration as well. However, there were 3 cases terminated solely on this basis, including mothers who had given birth to children suffering from cystic fibrosis, phenylketonuria, and repeated major congenital anomalies in a marriage involving first cousins.

Changing trends

There has been a definite increase in the number of Therapeutic Abortions at the Toronto General Hospital during each of the three 4 year periods studied in this series. This trend is clearly outlined in Table V. During the 4 year period 1962-1965, there were 44 more therapeutic abortions carried

TABLE V  
THERAPEUTIC ABORTIONS, TORONTO GENERAL HOSPITAL, 1954-1965  
CHANGING TRENDS DURING 4 YEAR PERIODS

	1954-1957		1958-1961		1962-1965	
	No.	%	No.	%	No.	%
Total therapeutic abortions.....	66		76		120	
Increase therapeutic abortions.....			10	15	44	58
Psychiatric.....	10	15	25	33	55	46
Rubella.....	14	21	9	12	18	15
Cardiovascular.....	7	11	6	8	15	12
Others.....	35	53	36	47	32	27
Deliveries.....	14,563		15,375		15,247	

out than during the period 1958-1961, an increase of 58 per cent. Most of this increase was due to the increasing numbers of pregnancies terminated for psychiatric indications, accounting for 30 of the 44 cases.

The fluctuation in the rubella incidence is due to the yearly prevalence of this viral infection in the community. In 1954, 1958, and 1962, no pregnancies were terminated for this indication. The range in the other years varied from one case in 1957, to 12 cases in 1964.

The large numbers of serious and complex heart disease cases referred to the medical and surgical staffs at the Toronto General Hospital, account for the increase in the number of pregnancies terminated for this indication.

Apart from these three indications, nearly the same number of pregnancies were terminated in each 4 year period for all other disorders. During the period 1954-1957, this group accounted for 53 per cent of the cases, and only accounted for 27 per cent of the cases during 1962-1965.

During the past 2 years, over 75 per cent of the pregnancies were terminated for three indications: psychiatric, rubella, and cardiovascular disease.

#### **Sterilization**

Of 262 patients, 141 or approximately 54 per cent were sterilized either in addition to the procedure for termination or as a result of the procedure. Of 90 psychiatric cases, 47 or approximately 52 per cent were sterilized, maintaining the same ratio.

Nine patients in this series had 2 therapeutic abortions. These patients should likely have been sterilized at the time of the first therapeutic abortion. However, of the 121 patients who were not sterilized in this series, at least 26 of them had one or more full-term normal deliveries subsequently. This is information that has been obtained only from the patient's chart, and certainly this figure is probably much higher, as many of the patients may have had deliveries in other hospitals in the city, while some patients have only had their therapeutic abortion within the past few years, and have not yet conceived again.

#### **Findings**

**Age.** The youngest patient in the group was 15 years old and the oldest was 46 years old. Forty-four per cent were in the 30 to 40

age group; 33 per cent were in the 20 to 30 age group; 17 per cent were over 40 years of age; and 6 per cent were under 20 years of age.

**Parity.** There were 57 primigravidas in the series. Only 3 patients were greater than para 6. The distribution according to parity was as follows: para 0, 57 patients or 22 per cent; para 1-3, 147 patients or 56 per cent; para 4-6, 51 patients or 20 per cent; para 7-12, 3 patients or 1 per cent. The parity of 4 patients or 1 per cent was not recorded.

**Marital status.** Thirty of the patients were single, approximately 12 per cent, 228 were married, and 4 were either divorced, separated, or widowed.

**Domicile.** One hundred ninety-nine patients lived in Metropolitan Toronto, 63 patients, or approximately 24 per cent, lived in areas outside of Metropolitan Toronto, most from Ontario, but there were a few from outside the Province, and a few from other countries.

**Duration of gestation.** In 145 patients, the duration of gestation was less than 12 weeks; while in 117 patients, the duration of gestation extended from 12 to 26 weeks.

**Methods of terminating pregnancies.** The methods used in terminating these pregnancies are outlined in Table VI.

A subtotal hysterectomy was performed in 17 of the 58 abdominal hysterectomies, or approximately 30 per cent, in most cases to speed up the procedure in poor risk patients. Twenty-one of the 66 cases terminated by abdominal hysterotomy were not sterilized.

The two Wertheim hysterectomies were performed for Stage I carcinoma of the cervix at approximately 18 weeks' gestation. The vaginal hysterectomy was performed at 6 weeks' gestation in a multiparous patient with uterine prolapse afflicted with multiple sclerosis.

A noncommunicating horn of a bicornuate uterus containing a pregnancy of approximately 8 to 10 weeks gestation was excised, in a psychiatric patient, after two unsuccessful attempts to terminate this pregnancy by dilatation and curettage.

**Complications.** Twenty-seven patients were classified as morbid, that is with a temperature greater than 100.4° F. on 2 or more days after operation, an incidence of approximately 10.3 per cent.

TABLE VI  
METHODS OF TERMINATING PREGNANCY

Method	Number of cases	Per cent of cases
Dilatation and curettage.....	98	37.4
Abdominal hysterotomy.....	66	25.2
Abdominal hysterectomy.....	58	22.1
	(17 sub-total)	
Fundectomy.....	31	11.8
Hypertonic glucose or saline....	5	1.9
Wertheim hysterectomy.....	2	0.8
Vaginal hysterectomy.....	1	0.4
Excision of noncommunicating horn of bicornuate uterus.....	1	0.4
Total.....	262	100

There were 23 major complications, an incidence of approximately 9 per cent. These included 4 perforations of the uterus; in 3 of these cases, a loop of bowel was brought down or prolapsed at the time of dilatation and curettage, requiring immediate laparotomy and hysterectomy. There were 2 cases of septicemia; 8 cases of hemorrhage in excess of 1,000 c.c. (3 of these latter cases required repeat dilatation and curettages), and one required a second laparotomy with resuture of the vaginal vault. There were 2 cases of bowel obstruction, one requiring a laparotomy to relieve the obstruction and the other treated successfully conservatively. One patient suffered a pulmonary embolus and severe thrombophlebitis, and improved and survived on anticoagulant therapy. There was one wound dehiscence and 2 extensive wound hematomas. There was one case of urinary tract infection, and one case of pulmonary atelectasis.

One patient who had chronic renal disease and hypertension, developed a cerebral hemorrhage within the first 24 hours following surgery and died. The mortality rate in this series, therefore, is approximately 0.4 per cent.

#### Comment

Any hospital in which therapeutic abortions are carried out should have a Therapeutic Abortion Committee. Merely having one or two physicians validate a request for a therapeutic abortion is a loose, unreliable method. There is no physician who could not convince one or two of his colleagues of the urgency of any particular situation. An impartial committee is critically urgent for

the best interests of the patient and the physician involved, and personalities should not be made a part of the judgment of the existing problem.

The letters presented by psychiatrists to the Committee contain much privileged information, and should not be attached to the chart, to be readily available to anyone who may pick it up. It is suggested that these letters be kept in a private file for safe keeping, and only a letter stating that the Committee has approved the abortion on psychiatric grounds, be added to the Chart.

In hospitals in which therapeutic abortion Committees have been instituted,<sup>5, 7, 11, 12</sup> there is a tendency to reduce the ratio of therapeutic abortions to live births. At the Toronto General Hospital, a Therapeutic Abortion Committee was instituted in 1964. In contradistinction to other hospitals' experience, there has been a definite increase in the number of therapeutic abortions carried out since its inception. An obvious reason for this increase is the fact that many of the smaller suburban hospitals hesitate to carry out therapeutic abortions, and prefer to refer these cases for consideration to the Toronto General Hospital, which is the largest teaching hospital at the University of Toronto; especially since it has become known that a Committee to handle these cases now exists.

It is felt that a ratio as low as 1:150 deliveries may be justified for teaching institutions, with referred problem cases. The public patients in this series received the same consideration as the private patients, so that the incidence indications, and ratios of therapeutic abortions to deliveries, were practically identical.

Despite their rigidities, the statutes have for the most part been liberally interpreted to include not only protection of the mother's life, but also her health, both physical and mental. However, since it is the obstetricians who violate these laws, it is they perhaps through their National Societies, who should seek their renovation.<sup>9</sup>

Economic and social factors are never in themselves legally and ethically acceptable as justifying therapeutic abortion in this country; yet because of their impact on health and disease, they cannot always be disregarded as secondary factors.

Family planning counselling and contraceptive advice and instruction, along with

a more liberal attitude toward sterilization, will remove from obstetrical circulation many women who may appear for pregnancy termination at a later date.

Patients whose indications for therapeutic abortion are permanent and incurable, should be sterilized. Other patients should be individually considered, and only sterilized if it is in the patient's best interest.

If a hysterotomy is carried out without a sterilization procedure at the same time, a scarred uterus is left which presents obstetric disadvantage in subsequent pregnancies. These particular pregnancies are ideal for termination with injection of hypertonic saline or glucose into the amniotic sac, after

removal of about 200 c.c. of amniotic fluid. In 1965, 5 pregnancies in this series were terminated satisfactorily by this method without complication.

Therapeutic abortion at any stage of gestation is still a somewhat hazardous procedure and should be recognized as such. It is not just a dilatation and curettage, as some members of the profession still think. It is most difficult, especially in a primigravida, to dilate the cervix sufficiently to remove the products of conception without either tearing or injuring the cervix. Perforations still occur, in spite of skill and care. However, as in any operative procedure, the complications can be accepted if the indications are valid.

#### REFERENCES

1. Boulas, S. H., Preucel, J. M., and Moore, J. H.: *Obst. & Gynec.* 19: 222, 1962.
2. Calderone, M. S.: *Abortion in the United States*, New York, 1958, Paul B. Hoeber, Inc.
3. Gold, E. M., Erhardt, C. L., Jacobinzer, H., and Nelson, F. G.: *Am. J. Pub. Health* 55: 964, 1965.
4. Greenhill, J. P.: *Clin. Obst. & Gynec.* 7: 37, 1964.
5. Guttmacher, A. F.; In Meigs, J. V., and Sturgis, S. H., editors: *Progress in Gynaecology*, New York, 1963, Grune & Stratton, Inc., vol. IV.
6. Hall, R. E.: *Am. J. Obst. & Gynec.* 91: 518, 1965.
7. Jeffcoate, T. N. A.: *Brit. M. J.* 1: 5173, 1960.
8. Lederman, J. J.: *Canad. M. A. J.* 87: 216, 1962.
9. Overstreet, E. W.: *Clin. Obst. & Gynec.* 7: 1, 1964.
10. Russell, K. P.: *Clin. Obst. & Gynec.* 1: 967, 1958.
11. Savel, L. E., and Perlmutter, I. K.: *Am. J. Obst. & Gynec.* 80: 1192, 1960.  
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Toronto 7, Ontario

#### Discussion

Dr. Vant, Edmonton, Alberta. As I open the discussion of this paper I can't help but feel that the absolute indications for therapeutic abortion are decreasing each year and that the increase in abortions for psychiatric reasons noted in recent years by Dr. Spivak is but a reflection of the socioeconomic tensions engendered by our modern way of life.

Most hospitals should have a therapeutic abortion and sterilization committee. General rules of procedure are necessary to enable a panel of three representative members of that committee, picked for each problem presented, to review the evidence and by majority vote to assent or dissent to the application. In that manner the doctor will be spared the onus of the final decision, the hospital will be protected, and the legal requirements will be satisfied.

The incidence of 5.8 therapeutic abortions for each 1,000 deliveries seems reasonable and reflects the fact that the Toronto General Hospital acts as a center. Lohner<sup>1</sup> of Utah noted in a recent 10 year study that the incidence of therapeutic abortions in Salt Lake City was one in every 2,482 deliveries.

He compared this to an incidence of 1:160 over a 5 year period at Mt. Sinai in New York and to 1:6,416 over a 10 year period, including 102,654 deliveries, at the Los Angeles County Hospital. He concluded that the various figures reflect the thinking of the region. Our figures at the University Hospital in Edmonton through the years 1955-1965 inclusive reveal an incidence of 1.02 therapeutic abortion to each 1,000 deliveries (33 in 22,292 deliveries). Thirteen of these were performed for psychiatric reasons and all but one of these had tubal ligation as well. Seventeen pregnancies were interrupted because of a variety of medical reasons and all but two patients had abdominal incision and tubal ligation. Three women who contracted rubella during the first 6 weeks of pregnancy were aborted by dilatation and curettage. During the years 1962-1965 inclusive of 16 aborted pregnancies 7 were for psychiatric reasons, 6 for medical problems, and 3 because of rubella.

Dr. Spivak has noted the great increase in psychiatric indications during the last 4 year period and this fact has been noted by others. Indeed, I think these have to be considered very carefully as in many cases the

observation period is short, the work-up is scanty and inadequate, and the decision to advise therapeutic abortion is not sufficiently positive to warrant consideration.

I believe that tubal ligation should be performed in all cases eligible for abortion for psychiatric reasons and indeed for most cases judged eligible for any other reasons. This procedure is best carried out by abdominal hysterectomy or abdominal hysterotomy and tubal ligation. This is a safe procedure with minimal bleeding and postoperative complications. If indeed it is imperative that a woman should not again conceive then she

should be offered the privilege of tubal ligation. Perhaps it is here that a liberal interpretation of the word imperative should be made by a sterilization committee.

As I grow older I am convinced that we doctors should make a greater effort to advise and instruct our patients in contraceptive methods that will be practical and satisfactory for their needs and their ability to use them.

#### Reference

#### REFERENCE

1. Lohner, R. W.: *Obst. & Gynec.* 27: 665, 1966.
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OFFICIAL REPORT OF MINUTES  
OF  
PROCEEDINGS AND EVIDENCE

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ALISTAIR FRASER,  
*The Clerk of the House.*

HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1967

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STANDING COMMITTEE  
ON  
**HEALTH AND WELFARE**

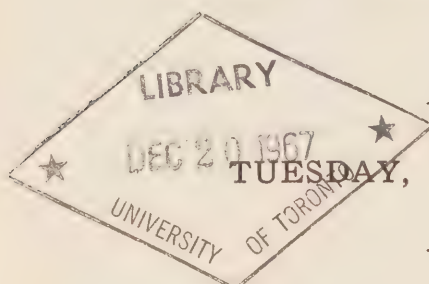
*Chairman:* Mr. HARRY C. HARLEY

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MINUTES OF PROCEEDINGS AND EVIDENCE

No. 10

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TUESDAY, NOVEMBER 28, 1967

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Respecting the subject-matters of

Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

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WITNESS:

Mr. David Dehler, Barrister of Ottawa.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1967

STANDING COMMITTEE

ON

HEALTH AND WELFARE

*Chairman:* Mr. Harry C. Harley

*Vice-Chairman:* Mr. Gaston Isabelle

and

Mr. Allmand	Mr. Forrestall	Mr. Orange
Mr. Ballard	Mr. Howe	Mrs. Rideout
Mr. Brand	( <i>Wellington-Huron</i> )	Mr. Rochon
Mr. Brown	Mr. Knowles	Mr. Rock
Mr. Cameron	Mr. MacDonald ( <i>Prince</i> )	Mr. Rynard
( <i>High Park</i> )	Mrs. MacInnis	Mr. Simard
Mr. Chatterton	( <i>Vancouver-Kingsway</i> )	Mr. Stanbury—(24).
Mr. Cowan	Mr. Matte	
Mr. Enns	Mr. O'Keefe	

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

TUESDAY, November 28, 1967

(11)

The Standing Committee on Health and Welfare met this day at 11:20 a.m., the Vice-Chairman, Mr. Gaston Isabelle, presiding.

*Members present:* Mrs. MacInnis, Messrs. Cowan, Forrestall, Harley, Howe (Wellington-Huron), Isabelle, MacDonald (Prince), Knowles, Matte, Rochon, Rock, Rynard (12).

*In attendance:* Mr. David Dehler, Barrister of Ottawa.

The Committee resumed consideration of the subject-matter of Bills C-122, C-123 and C-136.

At the request of the Acting Chairman, the Clerk read into the record letters from Dr. Paul V. Adams, M.D., and Dr. Kevin J. R. Ford, M.D., both of Winnipeg, who appeared before the Committee on behalf of the Catholic Physicians Guild of Manitoba on November 16.

*Agreed,*—That the Summary of Literature on Therapeutic Abortion and the Notes on Summary sent by Dr. Ford be printed as an appendix to this day's proceedings (*see Appendix "Q"*).

The Acting Chairman introduced Mr. Dehler who summarized the content of his submission, a copy of which had already been distributed to the Members.

*Agreed,*—That the brief submitted by Mr. Dehler be printed as an appendix to this day's proceedings (*see Appendix "R"*).

Mr. Dehler was questioned.

The questioning concluded, the Acting Chairman thanked the witness for having expressed his views, and at 1:05 p.m. the Committee adjourned to 11:00 a.m., Thursday, November 30.

Gabrielle Savard,  
*Clerk of the Committee.*



## EVIDENCE

(Recorded by Electronic Apparatus)

**Tuesday, November 28, 1967.**

• (11:23 a.m.)

**The Vice-Chairman:** Ladies and gentlemen, you have a new Chairman this morning. I am only temporary, so do not worry. Dr. Harley will be back probably at noon, or at least for the next meeting.

We had a meeting of the Subcommittee on Agenda and Procedure on Friday, November 24, and we have a report to present to you. Because I do not see enough members present perhaps we had better postpone it, or present it at the next meeting.

We have also received a letter from Dr. Paul V. Adams, who appeared before the Committee on behalf of the Catholic Physicians Guild of Manitoba. I will have his letter read into the record. Miss Savard, would you read the letter, please?

Dear Doctor Harley:

Once more I wish to thank you and the members of your committee for your gracious attention to the views of Dr. Ford and me on the question of the proposed changes in the law on abortion.

The questions after the initial statements came so quickly that there was a tendency to make a snap judgement. There was one question which came to me which I believe was asked by Mr. Stanbury or Mr. Enns. I was asked whether I would have opposed the introduction of bill 209, sub-section (2) many years ago. I answered "yes". In fact I believe that the question is rather irrelevant but my answer should more properly have been that I would not have sponsored this bill but probably would not have opposed it. This may be a small point but it is an important one to me. Personally, I would not perform a direct therapeutic abortion even under the term of section 209 (2). However, as you know we are not trying to remove this

existing law which allows some action by those whose conscience so allows.

The work that you are performing as chairman of this committee is extremely important. Your decisions may have far-reaching effects and will require great sagacity on the part of you and your committee. I wish you every success in your deliberations and your future work.

Yours sincerely,  
Paul V. Adams, M.D.

**The Vice-Chairman:** The Chairman has also received a letter from Dr. Ford, who accompanied Dr. Adams. The letter is very short, and it reads as follows:

Towards the end of the Committee meeting last Thursday, I think some referral was made to the bibliography relating to my paper. I am enclosing it, with a summary of it entitled Notes on Summary, for the convenience of the Committee, if this is desired.

Is it agreed that the Notes on Summary sent by Dr. Ford be printed as an appendix to today's Proceedings?

**Some hon. Members:** Agreed.

**The Vice-Chairman:** Ladies and gentlemen, we have with us today, as a witness, Mr. David Dehler, a barrister in Ottawa, who appears before us as a Canadian citizen. Mr. Dehler is a partner in the law firm, Vincent, Choquette, Dehler, and Dagenais.

I will ask Mr. Dehler to present his brief.

**Mr. David Dehler (Barrister, Ottawa):** Mr. Chairman, and members of the Committee, my name is Dehler—and I will just correct the pronunciation; although it is not too important, and I am not insulted in any way.

**An hon. Member:** You are not a "wheeler-dealer".

**Mr. Dehler:** Not a wheeler-dealer; although the Chairman has suggested that I must be a wheeler-dealer in the office.

I am here as a citizen who happens also to practise law. I am here because I am concerned about this problem. I realize that although democracy can be tedious, in your having to listen to various views, these views must be made known if the person considers they are relevant, and I think mine are.

I suppose you have read the brief, or at least you have had it in your hands for a few days I will therefore not trouble you by reading it. I will summarize briefly its contents, and I will then go directly to the recommendations.

The brief deals with the problem in three parts and I suggest that it has so to be dealt with. These are, first, the problem of human life; second, the moral problem; and, third, the legal problem.

In the area of human life you have a very difficult decision to make, and I suggest that this Committee must make the decision before it can recommend any conclusions. That decision is whether or not foetal life is human life. If the consensus of this Committee is that foetal life is not human life then there is no moral problem, and your legal problem is relatively simple. The only concern then is to ensure that abortions are carried out in proper circumstances to safeguard the health of the mother and under the supervision of qualified medical practitioners.

However, if foetal life is human life, then you have to face the moral problem and the moral problem raises the question: Is it ever justifiable deliberately to terminate pregnancy by deliberately killing the foetus? I suggest that it is not, except perhaps for the purpose of saving the life of the mother; and this presents a morally vexing problem which still has to be studied from a moral point of view. However, this is already in the Code and I do not think it is necessary for me to attempt to justify the proposition that it is perhaps justifiable to abort to save the life of the mother.

• (11:30 a.m.)

But, having resolved the moral problem, you do not automatically resolve the legal problem although you still must consider the moral problem. I propose in paragraph 19 of the brief, certain tests, which I think this Committee must apply. And the answers must be clear before recommendations are made to liberalize abortion laws. The tests are found at page 10 of the brief.

(i) what precisely is the social problem to be remedied?

(ii) will the remedy solve the problem?

(iii) will the remedy create further problems?

(iv) will any benefit gained outweigh any harm created?

These tests must be applied seriously. There is consensus that the social problem is backstreet abortions, non professional abortions. I think the second question "Will the remedy proposed solve the problem?" cannot be answered yet because the statistics presented and available are inconsistent. I suggest further that even if statistics, reliable statistics, did answer the question whether the social problem would be remedied, you are back to the question: Do you want to remedy that social problem at the expense of human life—if you so find that it is human life? Therefore, I conclude that at this time there is no evidence, reliable evidence, to justify liberalizing abortion laws; however, the law is unclear and therefore I make the following recommendations which are found at page 14:

1. That grounds for abortion not be broadened unless and until reliable statistical data exists and is obtained regarding the experience of all countries and which data will stand the tests proposed in paragraph 19 herein.

What I am suggesting here is that serious work must be done to obtain accurate statistical data and when that data is available you can apply those tests I propose in paragraph 19. If the tests are met, then, and only then, would there be justifying reasons for broadening grounds for abortion.

2. That the criminal law be clarified to state clearly that an abortion to save the life of the mother is permissible provided two duly licensed medical practitioners who are specialists in gynaecology or obstetrics certify by affidavit that the abortion is necessary for that purpose.

It is obvious that the law is unclear and I am sure that everybody will agree that the law needs clarifying in this respect. The third recommendation:

3. That the criminal law be clarified to state clearly that, except for the circumstances in No. 2 above,...

That is the circumstances relating to the life of the mother.

...those seeking or performing an abortion shall be liable to criminal prosecution.

The fourth recommendation:

4. That the criminal law be clarified to provide for a legal definition of human being.

I think you are back to the essence of the problem. It is interesting to note that there is no definition of "human being" in the Criminal Code; there is a definition of when a child is taken to be a human being; there is a definition of person; there are definitions of other things, but there is no definition of a human being. You have got to come up with a clear idea and a clear statement of what is understood by "human being" and whether foetal life is human life. The fifth recommendation:

5. That the criminal law be clarified to state clearly that measures to avoid pregnancy in cases of rape or incest are permissible on the recommendation of two licensed medical practitioners and with the consent of the local Crown Attorney.

This recommendation is based on the distinction between avoiding pregnancy and terminating pregnancy. It is my understanding, which is subject to correction by medical experts, that the time between sexual intercourse and conception can vary from hours—five to ten hours to many more hours—therefore, if rape or incest occurs and a complaint is made very quickly, there should be no objection to taking necessary measures to avoid pregnancy. This, therefore, becomes a contraceptive measure. It is not abortion. I say "licensed medical practitioners and the consent of the local Crown Attorney" because the local Crown Attorney, who is able, because of his experience, to ascertain *prima facie* whether there is a good case for rape or incest, should be involved to make that decision.

Otherwise, if you talk abortion for these reasons of rape and incest, you are involved with very difficult problems. To begin with, if it is going to be rape or incest, it must be legal rape. It cannot be supposed rape.

**Mr. Cowan:** Legal rape or illegal rape?

**Mr. Dehler:** I am sorry. A legal rape in the sense that there is a legal finding that there is rape; therefore, one must consider the time element: laying a criminal charge; defence attorney asking for adjournments; election of

trial by judge and jury; preliminary hearing; committal to trial. Time is at the essence. By the time there is a legal finding of rape, the woman will be quite pregnant and foetal life will be quite developed. You are going to have a very difficult problem at that time to justify abortion even for these reasons. If the accused takes an appeal the delay may be five or six months. It is inconceivable that after six months' pregnancy these reasons would be invoked for an abortion. The sixth recommendation:

6. That all provisions in the Criminal Code relating to the advertisement, sale or use of contraceptive measures be rescinded.

This is based on the clear distinction between contraception and abortion. Contraception deals with personal sexual morality; abortion deals with human life—unless this Committee finds that it is not human life. There is no reasons to legislate against the use of contraceptives, when, according to the consciences of some people, it is quite permissible and in fact to be recommended, and according to the conscience of others it is not. But one cannot invoke simply conscience when talking of human life. For although everybody discussing this is certainly sincere, one can be sincerely wrong. When talking life, "to be civilized is to be conservative," as I stated in the brief, and we must tread very cautiously. The seventh recommendation:

7. That a sub-committee of your Standing Committee be created to enquire into and report back to the Standing Committee on the effects of liberalized abortion laws in other countries, such sub-committee to be assisted with all financial means required for such study and report.

This is based on my opinion that you need reliable statistical data and judging from the evidence presented to date before this Committee, pro-liberalizers have their statistics, anti-liberalizers have theirs. Each can apparently support his view with statistics. I conclude, obviously, these statistics are not reliable and my view is shared by an international conference on abortion held in September, 1967 in Washington, D.C. where 75 experts in law, medicine and the social sciences agreed that they could not decide either the legal or moral issues without further information, which they did not have and which was not available—reliable information. And the last recommendation is:

8. That Canada recommend to the United Nations that an appropriate agency of the UN...

study this problem

...and report in depth on abortion laws and practices around the world.

In short the problem is serious, the problem is vexing, the problem is related to many other problems. As I have stated in the concluding paragraph of the brief,

The problem of abortion is simply that it is abortion. The answer is not to make it legal or semi-legal but to make it unnecessary. The problem of abortion should therefore be attacked at the roots,—conception. Responsible sexual attitudes; responsible contraceptive measures; responsible social attitudes and measures towards the less fortunate, towards the unwed mother; birth control clinics; economic measures; family assistance. These complex and interrelated problems are at the root of the abortion problem which should be resolved with breadth of vision and judgment, with respect for life, with love for the unseen life in the womb whose destiny is fundamentally no different from our own.

In short, if we are to distinguish between the potential human being and actual human being, we can certainly say that the child at birth is a potential human being. It has not yet the capacity nor the ability to exercise the capacity to reason or to choose freely; therefore, he is as potential as a child in the womb.

• (11:40 a.m.)

Thus, distinctions between the potential human being and actual human being can be applied to human beings outside the womb, and one should not invoke such a distinction to try to justify abortion. With these remarks, I conclude my summary.

**The Chairman:** Thank you, Mr. Dehler. Is it agreed that Mr. Dehler's brief be printed as an Appendix to today's Proceedings?

**Some hon. Members:** Agreed.

**The Chairman:** The meeting is now open for questions.

**Mr. Rynard:** Mr. Chairman, I want to compliment Mr. Dehler on the brief which he has presented. He has done two or three things

that are very worthwhile. Statistics of other countries should probably be considered where they have been doing this much more extensively than we have. I wish to ask him a couple of questions to clarify my interpretation of what he said. For instance, I understand that he is in favour of all measures to prevent conception.

**Mr. Dehler:** Controlled by law.

**Mr. Rynard:** How would you go about this legally? Are you in favour, for instance, of tying the tubes off so that you would not have pregnancies?

**Mr. Dehler:** I am not in favour of all measures that would involve mutilation of the physical characteristics of man. Another difficult problem is contraceptives and I would want to study in detail any specific contraceptive measures.

What I am referring to in the recommendation on contraceptive measures in this: I believe that it is Section 150 of the Code which prohibits advertising and sale of contraceptive measures. I am thinking rather in terms of condoms and the like. I am not thinking in terms of mutilation of the physical nature of man which is a different problem that would have to be studied at that time.

I am unprepared now because I have not studied the problem sufficiently to express an opinion on that. I am not trying to avoid your question.

**Mr. Rynard:** In other words, you are leaving that part out. You are leaving it in an open field.

**Mr. Dehler:** I am leaving it a matter to be studied seriously before recommendations are taken. It is quite a different matter from the contraceptive measures that I am referring to.

**Mr. Rynard:** Yes, but it is a contraceptive measure.

**Mr. Dehler:** It is indeed.

**Mr. Rynard:** This is the point and it is in your brief. You say that you are in favour of "birth control clinics"; "economic measures"; "family assistance", and so forth. I just wondered if you were going that far or not?

**Mr. Dehler:** I am not prepared at this time to go that far unless and until I have studied the problem with those details in mind. I am

suggesting that the problem be studied in that area in detail prior to a decision being taken to widen the abortion laws.

**Mr. Rynard:** This is why I was wondering if you were, and not including that, why you did not indicate in your paper that further study should be done on this. You have made a recommendation that we should study the whole picture of abortion in the country, yet you left that part out.

**Mr. Dehler:** Then my brief is inaccurate and insufficient in that respect.

**Mr. Rynard:** Yes.

**Mr. Dehler:** That is why I have presented it to this Committee so that these points will be clarified. Therefore, the brief should be interpreted along the lines that you suggest.

**Mr. Rynard:** This is what I wanted to make clear.

Your recommendation is that the criminal law be clarified to state clearly that an abortion to save the life of a mother is permissible provided two licensed medical practitioners who are specialists in gynaecology or obstetrics certify by affidavit that the abortion is necessary for that purpose. My question is, why do you specify two specialists in gynaecology or obstetrics?

**Mr. Dehler:** That is based on a problem which doctors can better answer. The problem, as I see it and as it has been related to me, is that a duly licensed medical practitioner, by virtue of his licence, is entitled to practise any area of medicine. In fact, however, he should not be allowed to practise any area of medicine because there are certain areas that require specialization.

For example, I should hesitate to ask a general practitioner to engage in brain surgery. I should hesitate to ask a person not trained in psychiatry to express a medical opinion about the sanity or lack of sanity of a person. This is another problem in the Criminal Code where you have medical doctors who are untrained in psychiatry expressing opinions in the courts as to the mental condition of certain accused persons.

I speak in terms of specialization because specialists do exist. They must exist for a purpose and, I assume that in the case of taking a life, it should be the opinion of the experts in that field which should be

required rather than the opinion of just any medical practitioner.

**Mr. Rynard:** Surely, this is neither an obstetrical nor a gynaecological problem. This is why I am objecting to it. I am also objecting to it on the grounds that you are discriminating against people who live in areas where there is neither a gynaecologist nor an obstetrician who can have the term, a specialist, applied to him properly. This would be rank discrimination.

There are towns of 20,000 without any gynaecologist or obstetricians. You would keep putting those people off until they could not get the necessary care to look after themselves at all.

**Mr. Dehler:** Therefore, I say again that this detail of my recommendation is subject to what the social facts dictate about the solution to the problem in this area. In other words, if the social problem dictates that in certain areas specialists will be unavailable the law could so provide that in the absence of specialists two licensed medical practitioners could so certify. In other words, my recommendation would, therefore, have to be amended accordingly.

**Mr. Rynard:** Would you amend it?

**Mr. Dehler:** I would amend it accordingly if the social facts indicated that in certain cases it would be necessary to make a decision and specialists were not available.

**Mr. Rynard:** This is splitting hairs because you are again discriminating. You are giving to one the value of an opinion which you are saying is much better than the ordinary general practitioner's and I say that this is a faulty premise.

**Mr. Dehler:** If it is a faulty premise, then, I would suggest that the medical profession should know. If I am at fault in that premise which should be corrected.

**Mr. Rynard:** There are hospitals operating today under the Ontario hospital commission, the Saskatchewan hospital commission or whatever province you like and they have no obstetricians or gynaecologists on their staffs.

**Mr. Dehler:** If that is the case, and I certainly do not doubt your word, then my premise is faulty and the recommendation should be corrected in that area.

**Mr. Rynard:** In a big city like Ottawa you forget about the people who live outside.

I would like to ask you on another point which I am not clear on. What would you do in the case of a woman who was about five months pregnant and became very toxic? Would you say that she could not be aborted? What would you do with that lady?

It is obvious that she is going to die and if she dies, so will the foetus. Would you take a chance—try to get that baby out—and see if it would live?

**Mr. Dehler:** You are talking about a case where an abortion would be performed to save the life of the mother?

**Mr. Rynard:** I am talking about a case where the foetus would die as well.

**Mr. Dehler:** Yes.

**Mr. Rynard:** You are going to lose two.

**Mr. Dehler:** Yes.

**Mr. Rynard:** What would you do?

**Mr. Dehler:** If I understand your question properly, that is the exception I think should be allowed...

• (11:50 a.m.)

**Mr. Rynard:** I see.

**Mr. Dehler:** ...to save the life of the mother.

**Mr. Rynard:** I was not too sure that you indicated this in your brief. That is why I brought it up. At what place in your brief would you put this, or would you point to it, that would cover this indication?

**Mr. Dehler:** Perhaps I do not understand your question.

**Mr. Rynard:** I will ask the question in this fashion. Suppose a lady is five months or five months and a week pregnant and becomes very toxic. It is obvious that she is going to die if something is not done. In this case you are going to lose the foetus as well...

**Mr. Dehler:** Yes.

**Mr. Rynard:** ...as losing the mother. There may be a possible chance that you could save that foetus by aborting the mother and saving her as well. You have not covered this in your brief, as I see it. I think this is a very important thing on your conscience and the conscience of everybody that practices medicine.

**Mr. Dehler:** I understand your question this way. Here is a case where you would

want an abortion to save the life of the mother and possibly to save the life of the foetus, as well.

**Mr. Rynard:** That is right.

**Mr. Dehler:** Oh. Therefore, it would come under the recommendation—it is certainly an abortion to save the life of the mother.

**Mr. Rynard:** How about the child?

**Mr. Dehler:** That is even better.

**Mr. Rynard:** All right, but you have not put that in your brief that I can see.

**Mr. Dehler:** I have not put it in the brief, I suppose, because I have not thought about it along these lines. If medical science can show us that such a circumstance would exist, then perhaps in years to come when we can recreate outside the womb the conditions of life in the womb, there will be no abortion problems.

**Mr. Rynard:** You realize that more and more we are getting so that we can save some of those babies at earlier dates if they have a certain weight and a certain maturity and this is the point I am bringing up. This would save probably two lives. I have a typical case in mind where this was done and the mother went on and had two, three children afterwards and well.

**Mr. Dehler:** That is even better.

**Mr. Rynard:** Yes.

**Mr. Dehler:** That is abortion to save life.

**Mr. Rynard:** This is right.

**Mr. Dehler:** It is not obstruction of life for other reasons.

**Mr. Rynard:** You have not made this clear in your brief.

**Mr. Dehler:** I am glad to clarify it and I certainly think that...

**Mr. Rynard:** Would you like to add it to your brief?

**Mr. Dehler:** Would I like to add it to my brief?

**Mr. Rynard:** Yes.

**Mr. Dehler:** I certainly would be glad to add it to my brief without any delay.

**Mr. Rynard:** Thank you very much.

**Mr. Forrestall:** Mr. Dehler, I want to ask you one question as you have dealt with the necessity or the absence before the Committee of any reliable statistics on experience of abortion both outside of this country and within this country. I want to ask you a very general question first. Do you think that total **permissive abortion** would totally relieve society of the dangers of or the incidence of illegal abortion?

**Mr. Dehler:** That question, I think, would depend on the data of the experience of other countries. I have quoted from Glanville Williams on the experience in Sweden just as an example of the varying attitudes and he says—if I can find that reference—that it does not.

**Mr. Forrestall:** Would this be an opinion that you would hold from your own personal investigation?

**Mr. Dehler:** In my personal investigation Williams is a celebrated author but this is Williams' opinion and I rather think that Williams, in expressing this opinion, is in the same boat as those expressing the contrary opinion. I have read different versions of the effect in other countries and I, therefore, conclude—I am not questioning the integrity of either person expressing the view but I do feel deeply...

**Mr. Forrestall:** Do you express that idea?

**Mr. Dehler:** No, but if they do express different views.

**Mr. Forrestall:** What I am interested in is your own view, resulting from your own research or as a private citizen appearing as such—as an individual representing no one other than yourself. Obviously you have done some research and you have arrived at certain conclusions. As one of those conclusions, in your own opinion—not in the opinion of those you may have quoted or otherwise but in your own opinion, your own conclusions—do you believe that total permissive abortion would rid Canada of illegal abortions?

**Mr. Dehler:** My mind, and I am not evading your question, is in suspense in the sense that I cannot decide. I do not know.

**Mr. Forrestall:** You do not know. Do you place again a lot of stress on the need for an accurate survey of world experience in this particular regard? Is that the result of your running across conflicts in interpretation of

evidence coming forward in the countries where abortion laws are more permissive?

**Mr. Dehler:** It is.

**Mr. Forrestall:** Do you find conflict in the evidence that you have been looking at in your own personal research with regard to Canada? For example, could I ask you this specific question? What was the outside figure that you may have run across estimating the number of illegal abortions in Canada and the lowest figure? Did you find a range?

**Mr. Dehler:** I do not have the sources of this here but the range was from, I believe, 800 into thousands and thousands of close to a...

**Mr. Forrestall:** I believe one report, I think you have obviously come across, I think it suggested some 400,000?

**Mr. Dehler:** I have not come across that but if there is such a report, to my mind it confirms the fact that all this so-called statistical data is speculation by those advancing one view or another and unreliable. Therefore it is necessary to have the reliable statistics before a decision can be taken.

**Mr. Forrestall:** Because I agree with almost everything that you have said in your brief and it is something that concerns me in a very real sense, I am curious about the concepts that led you to some of your conclusions and I am wondering did you employ the principle of the lesser evil in arriving at some of your conclusions or did you give consideration to the principles of—you obviously did—but was it a viable thing in your reasoning, the question of whether life is mediate or immediate? That is to say, from the point of pregnancy, did you give consideration to when that life became viable in the sense of human form and adopting what most of us, as Christians, refer to as a soul or human life? Was this a part of your real considerations or were you more clinical in your approach to it?

**Mr. Dehler:** My approach was based on, what I refer to as a presumption, and second what I refer to as available medical or biological, philosophical and theological knowledge.

**Mr. Forrestall:** You did not consider it from the strictly moral angle at all?

**Mr. Dehler:** Well, I have in my other...

**Mr. Forrestall:** Other than your general assumption.

**Mr. Dehler:** I do not think it is necessary to enquire into the Christian notion of the existence of a soul in view of my conclusion about this question. What St. Augustine or Aquinas or any of these other Christian theologians have said down through the ages was really a conclusion of experimental science—that is, of physical observation then expressed in philosophical or theological jargon.

**Mr. Forrestall:** I accept that and that is fine. That gives me the answer that I was looking for. I have one final question with respect to your suggestion Canada recommended to the United Nations that an appropriate agency of the United Nations inquire into and report in depth on the abortion laws and practices in the world. How would you envisage that something of this nature be done by the United Nations? Do you see simply a statistical study by a formed agency or an existing agency?

• (12:00 noon)

**Mr. Dehler:** I envisage it this way. From my research, I conclude that an agency or a body of government where statistics, relating to abortion in its social context are kept, does not exist in various countries; therefore, either the United Nations could engage in its own study by sending researchers into various countries as, for example, the International Commission of Jurists sends teams of lawyers into various countries to study the actual political-legal conditions. They make periodic reports to the Commission which in turn forwards this information to members of that organization. It can be done either by the United Nations sending its own researchers into the various countries, or by having the various countries engage their own researchers who would make the results of their serious studies and research available to the United Nations to be further analysed or it could be done both ways. International researchers of the United Nations co-operating with researchers of the various countries could make a very serious study of this problem. I do not think such a study has been made to date.

**Mr. Forrestall:** I have one last question, Mr. Chairman.

Is it your opinion then, that we should not proceed until such adequate studies are

available to us on the experience, not only here in Canada, but in other countries? In other words, we should not arrive at any definitive conclusions or base any report we make back to government or to Parliament on the basis of the information which is now available to us.

**Mr. Dehler:** That is my opinion. I think you should clarify the law as it now exists and that any recommendation to broaden the law would be premature.

**Mr. Forrestall:** I agree with you. Thank you very, very much for your time and effort.

(Translation)

**The Vice-Chairman:** Mr. Matte, you have the floor.

**Mr. Matte:** Do you think that abortion ends what would necessarily and essentially become a human being?

**Mr. Dehler:** I did not understand part of your question. Could you please repeat it.

**Mr. Matte:** Do you think that abortion ends what would necessarily and essentially become a human being?

**Mr. Dehler:** Yes.

**Mr. Matte:** Now, do you believe that the government must, in principle, preserve or safeguard before all else the greatest possession on earth; that is, life and the principle of life?

**Mr. Dehler:** Yes.

**Mr. Matte:** Do you think that the bills now being introduced are too advanced for the government to act on?

[English]

**Mr. Dehler:** I think the bills before the Committee, as framed, are premature. They simply copy a wave that is sweeping the continent and the world—because the United States adopts this as legislation so should we—because the United Kingdom adopts this as legislation so should we. Simply because it is adopted as legislation in other countries does not make it right. A Spanish philosopher once said that we should look abroad for information not for an exemplar. We would be more serious in our work if we would study the facts abroad rather than import their legislation.

[Translation]

**Mr. Matte:** Do you think that the mother can decide by herself that she is the mistress of life?

[English]

**Mr. Dehler:** A mother cannot decide for herself whether she is the master of life. I have indicated in paragraph 23 of the brief, the following:

23. If the possible defect of the child-to-be-born is from a social point of view sufficient justification for abortion, why should the decision rest with the mother? Why should her consent be the deciding factor? Why should the state not intervene as *parens patriae*—

as constitutional guardian of the children,  
—to decree abortion regardless of the mother's wishes?

if it is a socially desirable thing,

And why—

likewise,

—should the state not intervene as *parens patriae* to decree that the child shall live regardless of the mother's wishes?  
Maternal consent—

in my mind,

—is not the issue.

The issue is, is it human life or not. If it is not, the problem is quite simple. If it is, then the obligations of the state as you have suggested, are equally simple.

[Translation]

**Mr. Matte:** Did you ever meet parents who, even if they did not desire a child, were ready to place the child for adoption once it was born?

[English]

**Mr. Dehler:** Do you mean place the child for adoption.

**Mr. Matte:** Yes.

[Translation]

Perhaps you did not understand my question. Have you ever met the parents who, even if they did not desire the child, were ready to give it away after it was born?

[English]

**Mr. Dehler:** Then I do not understand the sense of your question. I have met parents who have kept the children even though they did not want the pregnancy. I have met families who have given up the child for

adoption only if they were not wed. I have not met persons who, not wanting the pregnancy, have let the child come to birth, and have then given it up for adoption if they had a family unit that was socially acceptable and legal. I must add that I find it rather strange to think that when people have intercourse they simply go to bed one night and say: "This is the night we are going to make a child." I do not think it works out that way. One could say, in a sense, that no pregnancy is decreed by the will of the parents.

**Mr. Knowles:** Mr. Dehler, if I understood you correctly, you said you thought this Committee ought to reach a finding as to whether or not the foetus is human life. Do you think any committee or any Royal Commission can make it so or not so because it produces a finding? If we find in this Committee that it is human life and some committee somewhere else finds that it is not, where are we?

**Mr. Dehler:** May I answer your question this way. The law, as it now exists, has made such a finding inasmuch as it has defined a child in a certain way. I do not think that, in making such a finding, you create the truth or the fact that it is human life. But I think the measures proposed for the widening of abortion assume one of two things: that foetal life is not human life or, even if it is human life, that the reasons proposed for the liberalized abortion laws are of greater value than the human life of the foetus. If foetal life is not human life there is no reason to advance justifying reasons. If it is not human life we need not permit abortion in this or that case. Abortion should be on demand. If it is human life, then I suggest that human life is far greater than the various reasons which have been advanced. One can and should invoke the Bill of Rights and the affirmations of the Parliament of Canada in the Bill of Rights about the right of an individual to life and the right not to be deprived thereof except by due process of law, and the right of each individual to equality before the law and protection of the law.

• (12:10)

I therefore conclude that the Committee must make a finding. If it does not do it explicitly it will be doing it implicitly, and every member of the Committee has to make such a finding in his own mind. One member may say: "I am of the opinion that it is not

human life and therefore I can go along with the proposed measures to liberalize abortion". Another member may say, "I think it is human life and I cannot go along with the proposals". Both members are sincere but the problem is so serious that sincerity is not enough. What is the best evidence we have available about the nature of foetal life and what really is human life? These are serious questions.

**Mr. Knowles:** Mr. Dehler, I think we agree on one point, namely, that any finding we come to would just be a finding of a legal nature, it would not establish truth or fact. I think I am using your own language. This would be a legal finding or an opinion.

**Mr. Dehler:** If I may, I do not think that is quite correct. On page 7, paragraph 14, of the brief I stated:

The absence of moral justification for abortion in my view does not automatically resolve the legal hence social issue. For not everything legal is right, nor should every wrong be legally prohibited. And nothing that is right is right because it is legal. There exists a relation between morality and law. But the purpose of law is not simply to legislate morality, and definitely not to legislate the particular moral standards of one group or another. But there does exist a relation between law and morality because law regulates human conduct and man is a moral being. The relation therefore between law and morality is to be found in human nature itself. And therefore the closer the social problem is to fundamental human values, the closer should the legislative enactment follow the moral imperative.

To my mind this is an issue which is very close to fundamental human values. It is so close in fact, that it is a decision on whether fetal life is human life and therefore the legislative enactment should follow the moral imperative and the question has to be answered before recommendations can be made. Are we talking about human life or are we talking about life that is not human? If it is human life, let us face up to it. If it is not human life, let us face up to it. But let us not say that we will define only legally in the area of life itself. For what Parliament will do in this area will affect the facts in society.

**Mr. Knowles:** This is an interesting philosophical circle, Mr. Dehler, and one in which

we could keep going around and around, but rather than question you further on it I want to get to the point I wish to make.

May I say that I respect your view but I still do not think that a committee or a royal Commission or any such body can make a finding of this nature. It is an opinion, a philosophical judgment, a theological judgment, and it would be quite a task if we had to make that decision here. However, I want to go further. I think you greatly oversimplify the issue if you say that all we have to do is reach that decision and then the recommendations follow. I believe there may be members of this Committee who do not regard the foetus as a human life who might be against abortion. I can also believe that there may be members of this Committee who regard the foetus as a human life who might be in favour of abortion.

**Mr. Cowan:** I cannot believe that.

**Mr. Dehler:** I would like to hear from the members who so reason. I am not talking about their sincerity. I would like to hear them reason out that proposition.

**Mr. Knowles:** Which proposition, the former or the latter?

**Mr. Dehler:** Either the first or the second, and if it is not human life why they would be opposed to abortion.

**Mr. Knowles:** I do not expect you will agree with me in view of the position you have taken, but I am certainly satisfied that these views could be advanced. I think a person could regard the foetus as not being a human life or as a potential being or something that might become a human life, and so on, but who might feel in the interests of society because of the revulsion to the idea of abortion, and so on, and because of the consequences that flow from it that we should not allow it. I think that is a perfectly arguable position for a person to take.

On the other hand, I can think of people who believe that the foetus is a human life but who also recognize that you have to set rights against rights. Yes, the so-called unborn child does have rights but the mother also has rights, and in resolving that matter a decision might be made by a person who was in favour of abortion.

I can see from your philosophical interest that you would like to take up and pursue both of these arguments. However, I suggest

that you are over-simplifying it if you assume after we take a decision by a majority vote and decide that the foetus is or is not a human life that we just write the report and it is all settled. I do not think it would follow if this Committee made a finding one way or the other that we would then find that it was automatic which way we went on this issue.

**Mr. Dehler:** Mr. Knowles, I do not think you understood me when I read from paragraph 14. I do not think you are interpreting my remarks correctly. I said, "The absence of moral justification does not automatically resolve the legal hence social issue." I am not over-simplifying the problem, I am saying that—

**Mr. Knowles:** You said we had to make that decision first.

**Mr. Dehler:** Yes.

**Mr. Knowles:** All right.

**Mr. Dehler:** That is what I am saying. Then...

**Mr. Knowles:** If that is your case I do not agree.

**Mr. Dehler:** And then you attack the legal problem.

**Mr. Knowles:** That is your case but I do not agree with it. One of the reasons I do not agree with it—if this does not sound too philosophical—is because I do not think we can make that decision in this Committee, and yet I think we have to decide on what we are going to recommend back to Parliament.

**Mr. Dehler:** If you cannot make a decision one way or another...

**Mr. Knowles:** Just a minute. We cannot make a decision on the question of whether the foetus is or is not a human life.

**Mr. Dehler:** All right.

**Mr. Knowles:** But I think we can make a decision on whether this Committee favours leaving the abortion laws as they are or changing them.

**Mr. Dehler:** If a decision cannot be made one way or another there is a working presumption that enters into the problem and, unless there is proof to the contrary, that working presumption should be that life in a human womb which results from conception

is human life. I suggest that that is a working presumption simply because if you find life in a human womb which results from conception there is no reason to think it is not human life. There is no reason to suppose it is vegetable or animal life and not human life. These things are merely speculations. I think normal reasoning—as a working presumption only—would reach the conclusion that if there is life in a human womb because of conception it is human life. If there is life in an animal womb because of conception it is animal life. Therefore unless there is proof to the contrary I think you have to work from this presumption.

**Mr. Knowles:** You are not asking us to make a finding now, you are telling us what the finding is. You call it a presumption. I am not arguing with this. This may be a perfectly proper view to hold. What I am quarreling with is your suggestion that we have got to make that decision in order to come to an opinion on the abortion question. I just do not think it is as simple as that. Maybe in this Committee it is thought that I am all on one side of the issue, but I recognize as anybody else does how difficult and complicated this question is, and I do not think that you can over-simplify it.

● (12:20 p.m.)

**Mr. Dehler:** May I express it in another way? I am not over-simplifying the legal problem. I am saying that the legal problem presumes that a decision is taken in somebody's mind at least as to whether it is human life or not. I do not care if the members of this Committee say publicly that they cannot take a decision on whether it is human life. They may say that. But surely each member in his own mind is going to have to decide—if not one way or the other—that it may well be human life, but, notwithstanding that, I will not deal with that problem, and I will deal only with the legal problem, because if, in fact, it is human life...

**Mr. Knowles:** Oh, the human problem, the right of the mother. I am just as concerned with the human problem of actual human beings as I am with these fine philosophical issues.

**Mr. Dehler:** Well, what I am saying is that human considerations include the life in the womb, as much as the life outside the womb—if you are talking human considerations. It is certainly a strange type of humanitari-

anism to my mind which concerns itself only with the life of the mother, and says really we are not talking about the life in the womb. Such a humanitarianism has made up the decision, to my mind, that the life in the womb is really not human life. A true humanitarianism, to my mind, would be a humanitarianism that embraces all human life, in the womb and out of the womb. Therefore, I come back to the proposition, not to over-simplify it, but to state that this is so fundamental that, whether you want to say it publicly or not, you are going to have to decide in your own minds on this question of human life or not, and your recommendations will be accordingly influenced by that decision that each member makes in his own mind.

I am not saying that the decision automatically solves the legal problem, but the decision will be made in each man's mind and will affect, quite seriously, the position he takes on the legal problem. I find it very difficult to follow any line of reasoning that would say, "Yes, it is human life in the womb, but it is a real human life that can be sacrificed for reasons of possible defect, for reasons of the mother's health"—I am not talking of the mother's life. When you are then talking of life and life, you are talking of two lives, and that is quite different. But for any other reasons, other than the mother's life, once that you have decided that it is human life, I do not know how any person on this Committee could do as you have suggested and say, "Yes, it is human life in the womb, but there are justifying factors other than the mother's life to legislate that you take that human life". I find it hard to follow that type of reasoning.

**Mr. Knowles:** Mr. Dehler, I respect your view as one that we have had presented to us a good many times, but I do not think that you should imply that some of us who might take the opposite view are taking a view that just cannot be considered. We may be just as humanitarian, and just as sincere, and just as concerned about values. . .

**Mr. Dehler:** I know you are.

**Mr. Knowles:** I think that you are trying to put us in the position that if we favour liberalizing the abortion laws, we have *ipso facto* either denied human existence to the foetus, or have decided that we just do not care for it.

**Mr. Cowan:** I was told in a debate in the House of Commons that I am a barbarian and savage and have a primitive mind.

**Mr. Knowles:** That may be the kind of language that occurs to my friend across the way.

**Mr. Cowan:** You object to being labelled that in this Committee. Is there no reply to that one?

**Mr. Knowles:** It just does not happen to be the vocabulary I use, that is all.

Mr. Dehler, I was quite interested in another distinction that you made when you distinguished between abortion and the preventing of conception. If I heard you, and I think I did listen closely, you said there was a margin of time between sexual intercourse and actual conception. I think you said five or ten hours, or it could be longer.

**Mr. Dehler:** Subject to what the doctors tell us, yes.

**Mr. Knowles:** And you thought that if a woman got to a doctor and something was done to her within that period of time, the five or ten hours, that that is not abortion, but that is avoiding of conception. You suggested that in your view this was permissible in case of rape or incest. Can the Committee find what that period of time is? Can we decide whether it is five hours, 10 hours, or 24 hours, that in that period of time it is an act of contraception rather than abortion?

**Mr. Dehler:** I do not think the Committee can.

**Mr. Knowles:** Well, if we cannot, how do you justify then—it is splitting hairs in this way—but it seems to me that you are prepared to call some cases of what might be abortion. Let me back up a bit. A woman has been raped.

**Mr. Dehler:** Yes.

**Mr. Knowles:** She gets to the doctor two days later. That is abortion, but you would allow it, or maybe I should not put words in your mouth if you would not.

**Mr. Dehler:** No.

**Mr. Knowles:** But if she gets to the doctor within five hours, that is preventing of conception and that is all right.

**Mr. Dehler:** I am saying that the recommendation is based on my understanding,

subject to what the doctors tell us, subject to reliable medical evidence about a time lag between intercourse and conception. Now, obviously, if doctors say that there is no reliable medical evidence about a minimum time lag, then obviously my recommendation should not be accepted. Then you are talking simply of the question of abortion in cases of rape or incest. When you are talking of abortion in cases of rape or incest, you are speaking of a very difficult problem, because there must be a finding in law that in fact there is rape before you should be able to invoke abortion because of rape or incest. The time lag in law for such a finding would result in a woman, in many cases, being pregnant four or five months. Then again you are back to the issue, as I see it, of whether it is human life or not, and whether it is socially desirable therefore to continue that pregnancy to its term, to birth, or is it more socially desirable then to allow an abortion because of the circumstances of rape or incest.

**Mr. Knowles:** Which way would you go?

**Mr. Dehler:** I would say that, from my point of view, it would be more socially desirable to bring pregnancy to its normal term and let the child come to birth, because I would find it difficult to understand how, after carrying a child for four or five months as a result of rape or incest, carrying that child to his natural term of birth would create anything more serious to the mother than she has already suffered as a result of rape or incest.

**Mr. Knowles:** What would be your position a couple of weeks afterwards?

**Mr. Dehler:** After what?

**Mr. Knowles:** After intercourse, that is, after the rape. Would you consent to an abortion two weeks after a woman had been raped?

**Mr. Dehler:** Personally, I would not.

**Mr. Knowles:** The only cases you would allow would be these acts of preventing conception that would take place if there is a period between intercourse and conception?

**Mr. Dehler:** Yes, if that could be...

**Mr. Knowles:** I would like to hear from you, Mr. Chairman. Do you think there is such a period of time?

**The Vice-Chairman:** The Chairman does not say anything. He is not supposed to say anything, but maybe Dr. Rynard has a supplementary. Dr. Rynard.

**Mr. Rynard:** I think you are getting into a field here of exercise, because how do you know the woman is pregnant? How do you know when she gets pregnant? She only ovulates once a month.

**Mr. Dehler:** Yes.

**Mr. Rynard:** You are getting into a whole field of semantics that nobody can get you out of, or no expert can get you out of.

**Mr. Forrestall:** We are back to my need for an expert here to advise us on these matters.

**The Vice-Chairman:** Mr. Knowles, do you have a last question?

**Mr. Knowles:** Would that help?

**Mr. Forrestall:** Well, at least he would be able to tell us that it would not help.

**Mr. Knowles:** Since you give me just one more question, I do not know whether to decide between asking about the certification by affidavit of doctors that a woman's life is in danger, or this old question about the mother not being able to decide.

• (12:30 p.m.)

**The Vice-Chairman:** You may go on and have two questions provided they are not too long.

**Mr. Knowles:** All right. Again, Mr. Dehler, are you not asking for the impossible when you require a certificate by two doctors—was there somebody else in it as well, or just the two doctors—that the woman's life was endangered? Can the doctors find that? Does it not have to be an opinion?

**Mr. Dehler:** I ask the doctors on the Committee to tell us that. I am saying if there are circumstances where a doctor can say—and I think Doctor Rynard, you were saying this earlier—that unless there is an abortion the mother will die, as the law already permits it, it should be clarified that this can be done. I assume, therefore, from what the doctor said that there are such circumstances.

**Mr. Rynard:** You always have to take an opinion. Surely, when you go for a surgical operation the opinion is: which is the greater risk—leaving what you have, the problem you have, or operating on you? This is

always a matter the doctor has to settle. Surely, he has to settle the same thing here.

**The Vice-Chairman:** I must point out that it is unfair to ask the witness any medical questions, since he is not a doctor.

**Mr. Knowles:** But he has made some pretty strong medical statements here about various things.

**Mr. Howe (Wellington-Huron):** Mr. Dehler, you made the statement that the social problem to be remedied is abortions performed by non-licensed medical practitioners. Do you infer that licensed practitioners do not do legal abortions at times?

**Mr. Dehler:** First, I think that question would be answered by the doctors on the Committee. Second, I think that the social problem that has given rise to this problem is what is commonly referred to as backstreet abortions by those unlicensed and untrained in medicine.

Whether doctors are performing abortions contrary to law, at present, has not given rise to the social problem. That is another problem. I am saying that what has brought this problem of abortion before Parliament for changes as I understand it is the question of backstreet abortions. That is the reason all these poor people, and one can sympathize with them, are undergoing abortions by persons in terrible circumstances.

**Mr. Rock:** What about the rich ones?

**Mr. Dehler:** I do not mean poor, financially.

**Mr. Howe (Wellington-Huron):** Mr. Dehler, I do not agree with you that it is just the rich that have illegal abortions...

**Mr. Dehler:** Just a minute, I did not say that.

**Mr. Howe (Wellington-Huron):** ...or the poor that have illegal abortions.

**Mr. Dehler:** I do not mean poor, financially. I should say the "unfortunate". That is what I meant. That choice of words.

**Mr. Howe (Wellington-Huron):** Of course, is this not the whole reason for this Committee sitting? Is it not the pregnant teenaged girl or the married woman who is ashamed, disturbed and morally and mentally anguished? She does not want any of her local people to know about it. Is she not the

one whom we are thinking about primarily—this victim of illegal practices?

**Mr. Dehler:** Again, I do not think we have reliable statistics to tell us who are seeking illegal abortions and who are not. Of course, they are illegal and there are no statistics.

I think in this area it is surmise and speculation. I do not know if it is really the married mother who just cannot tolerate having another child, probably because of post natal socio-economic conditions.

Maybe that is the person who is seeking abortion most of the time. Maybe it is someone else. These persons may be unmarried teenagers or unmarried adults. I do not know, but what I am saying is that there is a social problem which has given rise to this, as I understand it. It is a fact that there are people seeking abortions by non-licensed medical practitioners.

**Mr. Howe (Wellington-Huron):** This is the very point that I am trying to make. They seek the advice and the help of these people. Why?

**Mr. Dehler:** Because the law does not now permit them to have abortions by duly licensed medical practitioners for any reason—on demand, their health, nervous depression, or post-natal socio-economic conditions. I suppose that is why. The law does not permit it now. The question is, should the law permit it?

**Mr. Howe (Wellington-Huron):** So much of this Committee's discussion has been connected with the live foetus, an individual or a live person. How often do you think that this question is going to enter the mind of the person that is directly involved?

**Mr. Dehler:** I would imagine that...

**Mr. Howe (Wellington-Huron):** As I say, she is filled with moral and mental anguish and shame.

**Mr. Dehler:** I would imagine it would not enter the mind very often and I am merely speculating. I would go further and say that even if it did it has no relevance in my mind to the problem. Whether or not the mother adverts to that fact of human life—I am working from the hypothesis that there is this fact—is not the issue because if it is human life then we have a big problem.

**Mr. Knowles:** Mental anguish is also a problem.

**Mr. Dehler:** Yes, but I think that in the scale of values, human life takes precedence—if it is human life.

**Mr. Howe (Wellington-Huron):** I do not think this is correct. I think that when a young girl, raised in a good home or any kind of a home, becomes pregnant, she does not want her parents to know. She talks among her friends. They say, well, so and so knows somebody that will do this for you. Why does she do that? Why did she not tell her parents? Yet, she is a victim of this type of thing.

We have a Criminal Code. The Criminal Code is very definite about people that do this type of thing.

What will happen to them? We have heard of licensed practitioners losing their licences and were in trouble with the law over this very matter.

This is the big issue in this Committee. How we are going to make it possible for these individuals to find help without going to people and carrying out the illegal act?

**Mr. Dehler:** I think you have to help these people. Everybody wants to help these people—those in favour of liberalized laws and those against it. It is the degree and the type of help that is to go given.

Those in favour of broader abortion laws think that this help is to make abortion more readily available under the law. Others think that is not the way to help them.

The way to help them is to train them to have responsible sexual attitudes and to train them to love life. That is, if you are pregnant outside of marriage, it is still human life; the unfortunate social situation is no reason to be ashamed of carrying that human life. One should want to carry human life and give birth to it.

It is a question of the degree and the type of help you want to give. Both parties are as concerned to help those people.

**Mr. Howe (Wellington-Huron):** We do hear people advocating greater social areas of premarital sex and so forth. This very thing can happen in these cases.

**Mr. Dehler:** I do not understand your question. I am sorry.

**Mr. Howe (Wellington-Huron):** I mean, you hear people saying that certain individuals are advocating premarital sex now, that it is a good thing, or that it should be allowable morally.

• (12:40 p.m.)

What is going to happen in these cases? Will that child be illegitimate or will the people be advised how to look after the child? In what area will we be able to help them?

**Mr. Dehler:** Well, take the case of a teen-aged daughter who is pregnant. First, I should hope that there would exist a social family atmosphere where she would feel free to tell her parents. If she does not feel so free, why does she not? That is one question.

Even in a family where she does not feel so free, there should be agencies and these agencies should be publicized. Publicize the fact that there are agencies: "Come, you are unwed mothers, come to this agency. We will help you."

I have had young pregnant girls in my office who have seen their pregnancy to its term and given birth to their children. In one case the child has been kept in the family by the parents of the unwed daughter. In another case the child has been placed for adoption.

I say there is the issue of value. We all want to help them. What type of help? What value do we attach to human life if it is human life? I think these are really serious questions. We can get lost in the marginal area which is a very important marginal area and not come to what we as a society want in terms of human life, if it is human life.

**Mr. Howe (Wellington-Huron):** Just as you mentioned, there are a tremendous number of agencies doing this type of work now and it is in the marginal area where the problem arises. I am referring to those who do not have sympathetic parents or understanding and those who have not had available to them social services to help them with their problems.

**Mr. Dehler:** This is what they should have. Take adoption, for example. Present laws do not permit a single woman to adopt a child. Why should a single woman not be entitled to adopt a child? There are many single women who would be fine mothers. They are experimenting with this now in New York State and it is working out very well. An unwed mother should be able to adopt her

own child and legally there should be no problem. There are many areas and much legislation is required in this field to be studied. I have just mentioned one area of help which would go far to uphold the values we attach to human life.

**Mr. Howe (Wellington-Huron):** Thank you, Mr. Chairman.

**Mr. MacDonald (Prince):** Mr. Dehler, I would like to come back to what I think is your basic supposition on which you draw out the various implications set out in your brief. If you accept, to begin with, your basic supposition I think your brief is well constructed. However, I think this is the area in which Mr. Knowles was attempting to raise some questions and I also would like to raise some questions in this area. Throughout your brief you raised this basic question: either foetal life is human life or it is not. Now I would suggest to you, sir, with great respect that this is a kind of trap question because you have over-simplified what I think is not a simple answer to it at all. If it was as simple as you relate it there likely would be no need for this Committee and the things that you talk about flowing so easily from this kind of decision would indeed have come much earlier. I would say to you that it is difficult to reach a firm consensus on the answer to this question. It is not a two-sided question but, as I said a moment ago, a trap question. It is not really a question of whether or not it is human life because there are many other sides to that question. Therefore I would find it difficult to accept this as a basis from which to start the kind of examination that you have carried on in this brief.

**Mr. Dehler:** I do not understand what you mean by a trap question. If you mean that I am trying to trap the Committee, you are wrong.

**Mr. MacDonald (Prince):** No, I do not mean that. I do not think it is a black and white question. You say either foetal life is human life or it is not.

**Mr. Dehler:** I am not suggesting that the legal problem automatically is resolved by an answer to that question but I am saying that question is at the base of it.

**Mr. MacDonald (Prince):** But what you do suggest, if I may say so, is that we must settle that question one way or the other and then go on from there to develop the appro-

priate legislation, and I would suggest that that is not the question. For instance, I think no one in this Committee would disagree, regardless of their position, that there is not an aspect of the development of the foetus not closely related to the development of human life and yet I think there is no reputable medical advice that would suggest that during the first five months of pregnancy that that foetus is a human life in the sense that we would think of it existing at this moment in this room; and immediately you start putting qualifications on this kind of definition you suddenly realize that it is not a matter of "yes, it is human life; no, it is not human life" but that we are dealing here with another aspect of life, if you like, that cannot be categorized in these two watertight compartments.

**Mr. Dehler:** I would be interested in hearing what the third alternative would be to that question which you call a trap question. I do not understand.

**Mr. MacDonald (Prince):** You say foetal life is human life. Now I think you would agree that you are using the term "human life" as a very general kind of description. For instance, we normally think of human beings as beings that are capable of surviving independent of any other human life.

**Mr. Dehler:** May I just stop you there for a minute? You have just said, if I understand you correctly, that a human being is a being capable of survival and independent life quite apart from the help of another.

**Mr. MacDonald (Prince):** Apart from the direct physical sustenance relationship that is established between the foetus and the mother.

**Mr. Dehler:** That is your definition of a human being?

**Mr. MacDonald (Prince):** I say that this must obviously enter into a consideration of human life in this instance, at least it would for me.

**The Vice-Chairman:** To clarify the situation, may I point out that we do not have anything to do with making a decision, at least at this point of our proceedings, whether or not a human being is a human being.

**Mr. MacDonald (Prince):** But I raise it here, Mr. Chairman, simply because I believe it is the basis of Mr. Dehler's presentation. I think he has given to us a well-reasoned presenta-

tion—that is, if you accept his opening premise—but I say it is not as easily accepted as he would lead us to believe in his presentation to the Committee.

**Mr. Dehler:** I come back with an example: Take the case of a human being who comes to birth and never in his lifetime exercises any faculties that we normally identify as human and yet we say “that is a human being”. We have no reason to call that person a human being other than the fact that because that person came out of a human womb he is part of the human species. Therefore this human being is afforded full protection of law although, apart from the fact that we knew it came out of a human being and was born of another human, there would be no reason to identify that person as a human being. Yet we still afford it full protection of law. Therefore I ask, what is a human being? And what difference is there in the case I mentioned and the case of a foetus in the womb? Perhaps the potentiality of a human being in the womb is greater than the potentiality of that other person I spoke of, yet we would not want to accord to the human being in the womb the same protection we would afford to that other human being outside the womb.

• (12:50 p.m.)

It is not a trap question. I am asking what do we as a society want to say about the value we attach to human life? Do we want to extend the value we attach to human life outside the womb to human life in the womb? I would say yes, we should want to. Therefore we have to ask ourselves, is this human life in the womb, because if it is we should surround that human life in the womb with all the protections and safeguards of the law that are given to the other example of a human being outside the womb.

**Mr. MacDonald (Prince):** But the problem with your example is that it is an exception, and we both recognize that.

**Mr. Dehler:** Oh, I recognize that.

**Mr. MacDonald (Prince):** The point I am making is that the situation with regard to the foetus is not an exception; it is not only the general rule but, from a medical standpoint, almost an absolute, until medical science at least reaches the point where it might be able to sustain life almost at any point of development during the various stages of foetal growth. What we are talking about here is the general situation; excep-

tions, where they exist, may be interesting but we have the responsibility of trying to provide the best legal framework possible.

If I may deal again with something that you raised early in your brief, you suggest that in considering the question of abortion we must keep in perspective the child, the mother, the father, society and God. Although this is a reasonable over-all view that one should look at I find that you become so caught up with attempting to pursue this matter of whether or not this is human life that there is little in the remaining part of your brief that would support the view that there is any perspective in your presentation with regard to the responsibilities that we have in respect of the mother, the father and society. Maybe God is beyond examination in this Committee but I think the other four elements mentioned are within our purview.

**Mr. Dehler:** I might say that the only omission that I see is the omission of the father, and I should add right now that again you are back to the question of human life. If my wife were to become pregnant I do not think it should be her decision alone to terminate that pregnancy. And if there is conflict between husband and wife about the termination of that pregnancy why should abortion be allowed against the husband's will? I think that is the balancing effect that would have to be brought into consideration.

**Mr. MacDonald (Prince):** It does seem to me that you bring in these other factors to support certain elements, but the basic question has to do with human life.

**Mr. Dehler:** Yes.

**Mr. MacDonald (Prince):** The human life question from a physical standpoint, and there is not too much in your paper on the quality of life, the mechanistic concept, if you like, of life. It does seem to me that we are concerned here more with the actual biological mechanism of life, the quality of life, and also as it relates to these various child, mother, father, society groupings.

**Mr. Dehler:** Are you asking a question? Do you want me to comment?

**Mr. MacDonald (Prince):** It is a statement to which you could react, if you like.

**Mr. Dehler:** It is clear that the brief is in support of a certain position, it is clear that throughout the brief you have an either-or proposition, and it is clear that the answer to

the either-or proposition does not automatically resolve the legal social issue, but to my mind it is clear that the either-or is a basic either-or that has to be asked. When you talk about the quality of life I do not know what you are referring to, whether you are referring to the physical qualities or the mental qualities. I do not understand your reference to the absence of talk about quality of life in this brief.

**Mr. MacDonald (Prince):** It does seem to me, if I can put it this way, that you are concerned in the first instance in identifying the foetus as human life and therefore the survival of that foetus in every instance short of the actual destruction of the mother must be preserved. Now I really wonder whether or not that is the only question and whether there are not other elements of life such as the mother, the father, society and even perhaps the unborn foetus itself.

**Mr. Dehler:** I would be glad to answer briefly by taking three cases. Take the case of the attempted justifying factor of the possibly defective child. Really, what difference is there in waiting to see for sure whether the child is defective—and I do not suggest this facetiously. Why not wait and let the child come to birth and if it has in fact defects, then kill the child, because the justifying reason is as justifying when it is born as just before it is born. It is as justifying a reason outside the womb as inside the womb, if it is really a justifying factor. Now I know that nobody suggests this be done outside the womb, and why do they not? I think they do not because—and I have a quotation from Lorenz where he explains it and, I think, puts his finger on the problem—it is horrible to think that we would be even advocating such measures outside the womb, because once you advocate it outside the womb and pursue the principle then you are involved with the questions, what about people who are socially useless, who are drags on society? And what about the old people and all the rest? Because nobody wants to become involved in this, they advocate, instead, while the child is out of sight in the womb, that it be aborted. This way we do not have to face the problem and its implications if the defective child were outside the womb. I do not think that is a justifying factor if you are talking about the quality of life, say, of a child with a possible defect.

Then you talk about the mother's health, physical or mental. Now psychiatric evidence is conflicting. From my reading of psychiatric evidence, subject again to what doctors tell me, we do not know that aborting a child is more helpful to a mother than psychiatrically treating her to take her through the pregnancy and to give birth to the child. To my mind, that has not been established yet because the evidence is not available.

Then there is physical health of the mother. What evidence is there that for reasons of physical health an abortion is required? And if there is such clear evidence, again you are back to the question of life, and do we want to attach to foetal life the value we attach to life outside the womb? I think that is the question and I do not present it as a trap question. Should we individually analyze the reasons advocated and ask in each case: is this socially beneficial, is this what society wants, do we want to say that the mother's physical health takes precedence over foetal life, do we want to say that the mother's mental health takes precedence over foetal life? My suggestion is that we do not want to say that and we should not want to say that if foetal life is human life, and therefore we have to ask the question.

• (1:00 p.m.)

**The Vice-Chairman:** Mr. Cowan, have you a question?

**Mr. Cowan:** I have just one. You are a practising lawyer, Mr. Dehler?

**Mr. Dehler:** Yes.

**Mr. Cowan:** How long have you been a practising lawyer?

**Mr. Dehler:** Five and a half years.

**Mr. Cowan:** On page three, paragraph 7 of your brief, which I find very interesting and I like it, you say:

One can safely say that there exists a medical consensus that foetal life is human life.

I agree with that. However, in the course of your brief you speak of legal opinion on the matter. Well, as a lawyer you must know of Thellusson's law in the relevant accumulations laws, and under Thellusson's law, which is part of the law of Britain and part of the law of Canada, you can dispose of your estate for 21 years plus gestation. Does that not give you a legal opinion that the foetus is alive for the entire nine months?

**Mr. Dehler:** Yes, but I do not think the answer to that really gives us the answer to the factual question of whether it is human life or not. It means that in that area this has been accepted. For example, there have been cases in the United States very recently where the courts are granting rights to prenatal life which they exercise after they come to birth. For example, children born of rape have actions, now, against the institutions where the mother was raped and there is an area of law developing.

**Mr. Cowan:** To prove that the foetus is alive.

**Mr. Dehler:** No, it does not prove it. It just means that the law is reflecting an attitude. The attitude may be wrong.

**Mr. Cowan:** Do you think it is wrong?

**Mr. Dehler:** I do not.

**Mr. Cowan:** Neither do I.

**Mr. Dehler:** For example, the law in Britain, as it now stands, would suggest something different in terms of abortion. Because the law says so, it does not make it right. I do not think it answers the problem this Committee has to face.

**Mr. Cowan:** I think this proves that the law of Parliament of Great Britain and Canada have admitted that there is life for the period of gestation, otherwise there would not be this legal right there for 21 years plus the period of gestation. Did you read your brief in part and not in full?

**Mr. Dehler:** Yes, I quoted it in part.

**Mr. Cowan:** I am sorry that you did not read from the top of page 12 and I hope all the members of the Committee will bear with me as I read it because I would like their comments very much. And I say "all members present". At the top of page 12 you wrote:

Is there not a strange, sophisticated, unreasoned, unexplainable madness in a body politic intent on the abolition of capital punishment because of the sanctity of life of the premeditated murderer, yet at the same time intent on the destruction of human fetal life because it is unseen and indefensible?

I enjoyed your presentation very, very much.

**The Vice-Chairman:** Have you finished your questions now, Mr. Cowan?

[Translation]

**Mr. Matte:** I have a question for you. Do you think it would be better for the government to do more to prepare public opinion and help the unwed mother and even the child instead of permitting virtually general abortion as the Bill proposes?

[English]

**Mr. Dehler:** I certainly do think that. I think it is strange that there is a social stigma to being an unwed mother in the sense that regardless of the fact that it is conception and birth outside of the matrimonial bond, it is human life. It is unfortunate that it is outside the matrimonial bond, but it is still human life and there should be an element of pride. It is human life—she brought to birth a human being and she should be permitted to keep the human being and be supported in it. Why not? There should be propaganda—that is a good word, "propaganda"—just as the CBC should be a vehicle for education.

**Mr. MacDonald (Prince):** May I ask a supplementary?

**The Vice-Chairman:** Yes, a short one.

**Mr. MacDonald (Prince):** Do you not think it might send up the premarital birth rate to a large degree if we start advocating premarital motherhood?

**Mr. Dehler:** I am not advocating that. I am trying to destroy the stigma.

**The Vice-Chairman:** I must thank you, Mr. Dehler.

[Translation]

I am sure that your contribution will be most valuable to this Committee.

[English]

At our next meeting the witnesses will be Mr. Barry Holmes, Editor of the *Weston Times*, Weston, Ontario and Mr. John Hackett from Downsview, Ontario.

This meeting is adjourned until Thursday, November 30.

## APPENDIX "Q"

SUMMARY OF LITERATURE ON  
THERAPEUTIC ABORTION

B.M.J. July 2/66, Vol. 2

*Therapeutic Abortion*—Report by B.M.A. Special Committee. Comment—nil much important.

*Summary of R.M.P.A. Memorandum*—"—in addition to traditionally accepted medical and psychiatric criteria, all social circumstances should be taken into account. If the mental health of the mother and the whole family would be promoted by termination, it should be lawful. Both long and short term have to be considered. Serious parental inadequacy such as fecklessness and irresponsibility does constitute grounds for termination.

Finally the memorandum states that a pregnant woman's health may be such that her emotional health, as well as her capacity as a mother, would be severely overstrained by the care of a child, or of another child and would constitute grounds for abortion.

B.M.J. Apr. 2/66, Vol. 1

*Legalized Abortion*—Report by Council of Royal College of Obstetricians and Gynaecologists. Suicide following refusal by doctor to terminate for alleged psychiatric reasons is an extremely rare occurrence.

Those that plead for a widening of the indications for therapeutic abortion to include socio-economic as well as strictly medical conditions contend that one of the effects would be to discourage criminal abortion. Yet there is evidence to show that the legalization of abortion often resulted in no reduction and sometimes in a considerable increase.

Also, legislation alters the climate of opinion among the public and even the Courts of Law, so that criminal abortion becomes less abhorrent.

In Japan, where socio-economic abortions have been legalized, the number of legal abortions rose to one million p.a. and illegal abortions were at the same rate, i.e. one million over a one year period. Finally one would have to contend with return visits of the same woman, and there have to be considered also the difficulties and dangers of abortion.

Psychologically the incidence of *serious* permanent psychiatric sequelae is rated as between 9 and 59%.

*Revision of the Laws*. Inclusion of the latter provision (risk that baby would be seriously handicapped physically or mentally) would often lead to destruction of potentially normal child.

World Medical Journal—Vol. 13, No. 3, May-June, 1966

*Legal Abortion—Sweden by Borell and Engstrom*—1938 Act—medical and medico-social, humanitarian, eugenic—no reduction in number of illegal abortions.

1946 Act—allowed if living conditions such that "her physical or mental powers would be seriously impaired through birth or care of child". Evaluated on the basis of environmental, social and financial conditions, as well as medical. 1963—Act amended to include, for example, results of thalidomide and rubella.

Gainfully employed females are slightly over-represented in both married and unmarried groups (study 1938-1965).

*Observation on Abortion by Gold*—Study in New York City—Over 90% of therapeutic abortions on white women. Socio-economic disparity 3.9 per thousand births (private hospital) as opposed to 0.1 per thousand in city and municipal hospitals (1960-1962). 2.4 versus 0.7 per thousand—private patients versus public ward.

*The Dangers of Abortion by Müller*—*Mental Injury* Neurosis very common after abortion. Unconscious affected. Manifest by—ideas of guilt, self reproach, sexual neurosis (frigidity), dyspareunia, vaginismus. According to Serdjukov they appear in 20-40% of cases. 1951, Siegfried—many women regretted the step, showing guilt, depression and inferiority feelings.

*Psychiatric Indications for Termination of Pregnancy* by E. W. Anderson. Sim "No psychiatric grounds for termination of pregnancy."

Problem of termination on psychiatric grounds is twofold—1) as it concerns the psychosis. 2) personality disorders and abnormal personality reactions. Probability or not of development of puerperal psychosis is NOT main problem.

Affective illness practically never constitutes indication for termination. Notion of specific "puerperal psychosis" dies hard.

Opinions diverge re indications in schizophrenia but it is in the personality disorders and reactions that there is the greatest difficulty. Such cases form overwhelming majority of cases referred to psychiatrists.

#### STATISTICS

Therapeutic abortion for psychiatric reasons range in various studies from nil in United Kingdom to 40% in U.S.A.

Binder (1941)—350 unmarried mothers—7% developed "severe chronic mental invalidism". These women were found to have had abnormal personalities before pregnancy.

Ekblad—479 females following legal abortion—25% showed guilt reactions, 11% severe, 14% mild.

Per Arén—34 out of 100 following legal abortion exhibited guilt.

Malmfors—37% of a series of 84 exhibited guilt.

Anderson—7 out of 24 showed guilt reaction.

These reactions may be severe and lasting, especially in an anancastic personality.

Suicidal threats frequent (33 out of 90 females in Anderson's series) but only one committed suicide one year following refusal of termination and this was not the sole factor in the suicide. 18% refused abortion did not go to term (range 6-40% Malmfors—Rumpfl and Noll).

*Social Factors*—Iron Curtain countries and Japan allow social indications in pure form. Scandinavian countries and East Germany allow it in modified form, i.e. socio-medical. Social situation can never be ignored. Such patients account for two thirds in Anderson's clientele.

#### SUMMARY:

- 1) Never in affective illness.
- 2) Schizophrenia not seriously affected by pregnancy.
- 3) Risky in obsessional and anancastic personalities leading to marked guilt.
- 4) Indicated in "worn out" mother. Help of P.S.W.
- 5) Assess each case on merits, especially with personality disorders and reactions.

Total situation—social indications will always enter.

*Combating Illegal Abortion in the Socialist Countries*—by Mehland. Ten years ago most of the socialist countries of eastern Europe undertook definite measures against illegal abortion. Legislation was started with the view that all women should be free to decide on their pregnancy and maternity, etc. Legalized in Soviet Union 1955; Poland, Bulgaria, Hungary and Rumania 1956; Czechoslovakia 1957; Yugoslavia 1960.

Nearly 90—99% of legal abortions were performed for social reasons (personal reasons), the disparity between family size and the desire for a higher standard of living playing an important role.

Independent of number of children the number of legal abortions is 50% higher for families without their own dwelling. A fifth to a third of all applications are based on bad housing conditions.

A.J.P. Vol. 119, No. 4, Oct. 1962

*The Psychiatrist's Role in Therapeutic Abortion: The Unwitting Accomplice*—by Bolter. California hospitals—50% of therapeutic abortion for non-physical reasons. New York States—psychiatric reasons for therapeutic abortion from 8.2—40% in a ten year period. In most U.S.A. states only indicated to preserve life. In most of these respects the pregnancy can be carried to term.

Archives of General Psychiatry—Vol. 15, No. 4, Oct. 1966

*Psychiatric Sequelae of Abortion*—by Simon and Senturia) Examination of research design, conclusions and results of published work. Sim.—213 females (all married) over a 12 year period, in Birmingham, all with puerperal psychosis treated satisfactorily, i.e. pregnancy carried to term. Obs. & Gynae. Vol. 29, No. 5, May 1967

*Psychological Reaction to Therapeutic Abortion*—Four women in group of 116 regretted legal abortion. Feb. 1967

*Interruption of Pregnancy for Psychiatric Indications*—By Ingram, Treloar, et al. I.P.-P.I. is commonest cause of therapeutic abortion in U.S.A.

Four year study—1960-64—80 therapeutic abortions per 15,000 deliveries, a ratio of 1 to 191. Psychiatric indications were 77.5% (total 62). In published work ratio I.P.P.I. to total abortions varies from 1.5—80% with an average of 35%.

Two thirds of the 62 were married, one third unmarried. All patients aborted for medical and fetal reasons were married. All 62 were financially reasonably well off. Psychiatric diagnosis—27 psychotic, 27 prepsychotic, 8 neurotic, but in 64% psychiatrists did not agree on degree or type of illness (neurotic, pre-psychotic or psychotic) but did agree on the need for abortion.

July 1966

*Therapeutic Abortions—Indications and Techniques*—by Niswander, Klein and Randall. 1943—64. Increase of therapeutic abortion in private patients from 4.0 to 9.6 per thousand deliveries with decrease of clinic patients of from 3.9 to 0.3 per thousand. Current incidence of I.P.P.I. is 85% of all cases in last few years.

The more affluent white private patients seem much more likely to undergo therapeutic abortion. Social factors appear to be increasingly frequent determinants in the medical decision to interrupt pregnancy.

A.J. Psych., Vol. 124, No. 4, Oct. 1967

*Psychiatric Opinion Regarding Abortion*—by Crawley and Laidlaw, December 1965—questionnaires sent to total A.P.A. membership (12,974 U.S.A. and 794 foreign). 40.6% and 31.1% were returned respectively. Questions 1-7 on a yes-no answer basis. Yes replies questions 1-6, (U.S.A.) ranged from 36.3—97.1%; Yes replies questions 1-6, (Canada) ranged from 77.6—94.5%; Yes replies questions 1-6, (Europe, Asia & Latin America) ranged from 69.4—93.9%; Question 7 “on request”—Yes—U.S.A. 23.5%, Canada 14.5%, Others 13.3%.

Br. J. Psych., Vol. 112, No. 491, Oct. 1966

*R.M.P.A.’s Memorandum on Therapeutic Abortion*

All social circumstances should be taken into account. If mental health of mother AND whole family would be promoted, therapeutic abortion should be lawful.

When considering possibly deleterious effects of pregnancy, psychiatrists have to bear in mind not only the direct, but also the remote affects on health and well-being of mother.

B.M.J. 2, 145, 1963

*Abortion and the Psychiatrist*—by Sim.

12 year study of 213 females with puerperal psychosis—all married.

Schizoid-affective	32	(15 %)
Schizophrenia	6	( 3 %)
Mania	3	( 1.5 %)
Depression	172	(80 %)

There were 17 schizophrenic mothers—10 with schizophrenic features prior to childbirth—7 after. All o.k. Previous puerperal psychosis in 23% of the patients. Sim quotes Ekblad (479 aborted on psychiatric grounds—25% with guilt reaction)—the psychiatrically abnormal find it more difficult than the psychiatrically normal to stand the stress implied in legal abortion. This means that the greater the psychiatric indications for legal abortion are, the greater will be the risk of unfavorable psychic sequelae after the operation. (Acta. Psychiat. Scandinav., Suppl. No. 99, 1, 1955) There are no psychiatric grounds for the termination of pregnancy.

NOTES ON SUMMARY

*Effect on Illegal Abortions:*

Page

- 1—Legalization of abortion often resulted in no reduction and sometimes a considerable increase. (Report Council R.C.O.G.)
- 2—Papan—socio-economic abortions legalized—legal therapeutic abortion rose to one million p.a. as did legal abortion (R.C.O.G. report)

*Incidence of Therapeutic Abortion on Psychiatric Grounds:*

Page

- 3—From nil (U.K.), 40% (U.S.A.). (Anderson)
- 5—New York State, 8.2, 40% in 10 years. (Bolter)
- 6—1960-64, 77.5%. Range in published work 1.5, 80% with average of 35%.
- 6—Current incidence I.P.P.I. in 85% of all cases last few years. (Niswander)

*Sequelae to I.P.P.I.*

Page

- 2—Serious permanent psychiatric sequelae in 9-59% (R.C.O.G. report)
- 3—Neurosis common; ideas of guilt, self-reproach, frigidity, dyspareunia, vaginismus (Muller)
- 3—These appear in 20-40% of cases, (Serdjukov)

4—479 females—25% with guilt reactions, (Ekblad)  
34 out of 100 guilt reactions, (Per Aren)  
37% out of a series of 84, (Malmfors)  
29% (7 out of 24) guilt reactions, (Anderson)

Suicide Threat:

Page  
1—Extremely rare for suicide following refusal termination for psychiatric reasons (R.C.O.G.)  
4—Threats, 33 out of 90, 1 suicide one year later, (E.W.A.)  
Threats, 62 out of 304, no suicide, (Lindberg)

Social Aspects:

Page  
2—Japan, 1 million per annum (socio-economic abortion legal)  
2—Gainfully occupied females slightly over represented in both married and un-

married groups in Sweden (Borell & Engstrom)  
2—90% therapeutic abortions on white females (New York City)  
3.9 per 1000 births private—0.1 per 1000 municipal  
2.4 per 1000 private—0.7 per 1000 public, indicative social disparity.

Page

6—Increased abortion private patients 4.0, 9.6 per 1000 with decrease of clinic patients 3.9-0.3 per 1000, '43-'64 (Niswander et al)  
5—90-99% legal abortion in East European countries (free choice abortion) for social reasons (personal reasons) the disparity between family size and desire for higher standard of living playing an important role. 50% higher for families without own dwelling independent of number of children.  $\frac{1}{3}$ — $\frac{1}{2}$  based on bad housing.

November 1967

K. Ford M.D.

APPENDIX "R"

SUBMISSION TO THE STANDING  
COMMITTEE ON HEALTH AND  
WELFARE RESPECTING THE  
SUBJECT MATTER OF  
ABORTION  
November 28, 1967                      DAVID DEHLER  
   Ottawa, CANADA

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INTRODUCTION

Purpose of brief

1. A study of the evidence already presented to this Committee shows clearly the wide range of opinion and the lack of consensus on either the moral or legal aspects of abortion. This brief attempts to state the questions and to suggest some answers which might assist this Committee in its complex task.

Pitfalls to avoid

2. Common entrapments must be avoided

if the work of this Committee is to conclude fruitfully. First, one must not think of the problem in terms Catholics versus others. Such thinking will lead inevitably to the second danger: each will attribute to the other false motives, and the substantive issues will not be discussed at the high level required. Reference therefore to pro liberalizers as pro-murderers, and to anti-liberalizers as medievalists or Victorians detracts from the rational and reasoned discussion required to solve this vexing and complex social issue. Third, one must not identify abortion with contraception. Contraception and abortion are not two sides of the same coin. For contraception deals with personal sexual morality and abortion deals with human life that is radically distinct from although dependent on the life of the mother. Fourth, one must not accept at face value so-called reliable statistics about the effects in other countries of liberalized abortion laws.

### Threefold problem

3. The problem facing this Committee is threefold. First, the nature of human life. Second, the moral problem of abortion. Third, the legal problem. This brief will consider the problem in that order.

## HUMAN LIFE

### Essential problem: human life

4. The essential problem facing this Committee is quite simple and quite profound. It is the problem of the nature of human life itself and our understanding of human life. Stated quite simply, either fetal life is human life or it is not. If it is not, there is no moral problem, and the legal problem becomes relatively simple. If fetal life is human life, then the problem is very serious and this Committee must tread cautiously. For a civilized society should be judged by how it values human life. And where human life is concerned, to be civilized is to be conservative. And to be conservative is to see and to resolve problems in their total perspective. In abortion this perspective includes: the child; the mother; the father; society; and God. A very difficult and complex balancing of interests which cannot be resolved overnight.

### Presumption favouring human life

5. We suggest as a working presumption that fetal life is human life, and that those who assert the contrary prove it. The presumption should favour the existence of human life because normal reasoning suggests that life in a human womb is human

life. There is no reason to think it is anything but human life until the contrary is proved. Therefore if it can be shown that this life is not human life, then the work of this Committee is quite simple. But until the onus of proof is discharged, the presumption should stand.

### Necessary evidence

6. Beyond the presumption, one must study all available evidence concerning whether fetal life is human life. One must marshal all the available insights of biology, philosophy, and theology.

### Medical consensus on human life

7. One can safely say that there exists a medical consensus that fetal life is human life. At the international conference on abortion held in September 1967 in Washington D.C., a medical consensus was reached to the effect that human life is present from conception in such a way that the fertilized human ovum has the genetic material required to produce an adult individual. In addition, Ashley Montagu of Princeton has stated in his book *Life Before Birth* that "from the moment of conception the organism thus brought into being possesses all the potentialities for humanity in its genes and for that reason must be considered human." And Dr. O. Ratner, Director of Public Health at Oak Park, Illinois, has stated that "modern science regards the embryo as a human being from the moment the male sperm fertilizes the female ovum" and that "pre-natal fetal development is as gradual and directive as post-natal growth of the child." Therefore birth is simply a convenient landmark in the continuing process from the womb to the tomb.

### Theological consensus on human life Karl Barth

8. At the same Washington D.C. international conference on abortion sponsored by the Joseph P. Kennedy Jr. Foundation and the Harvard Divinity School, theologians and philosophers reached a consensus on two points: first, that fetal life is in fact human life, and second that to kill fetal life simply for the sake of convenience is immoral. And Karl Barth, the greatest Protestant theologian of this generation, has written: "The unborn child is from the very first a child. It is still developing and has no independent life. But it is a man and not a thing, nor a mere part of the mother's body... He who destroys germinating life kills a man and thus ventures the monstrous thing of decreeing con-

cerning the life and death of a fellow-man whose life is given by God and therefore, like his own, belongs to Him... Those who live by mercy will always be disposed to practice mercy, especially to a human being which is so dependent on the mercy of others as the unborn child."

## MORAL PROBLEM

### Moral imperative

9. Man cannot escape the moral imperative of reason. A reasonable man must act in a moral manner whether he calls it that or not. The different attitudes towards abortion are truly explained not in terms of morality versus immorality but in terms of different moral principles. Morality is inescapable because of man's reasonable and responsible nature. Man is obliged to follow the truth as he sees it. Every man must act according to what he holds to be true. Morality is the free pursuit of truth.

### Traditional morality

10. Human morality is therefore coextensive with man. It is common to all men no matter what particular philosophy or religious persuasion each man professes or does not profess. Every man recognizes certain things to be good simply because he thinks they are good. The obvious example is the sanctity of human life. It is only because we think human life is sacred that we have laws which prohibit its destruction. This is traditional and time-honoured. And man acknowledges this. Polanyi accurately observes: "The public, taught by the sociologist to distrust its traditional morality, is gratified to receive it back from him in a scientifically packaged form."

### Moral problem

11. The moral question may be stated simply. Is there ever justification for the deliberate termination of pregnancy by destruction of fetal life? And the question may be answered by a series of disjunctive propositions. Either fetal life is human life or it is not. If it is not, then the answer is simple: there is no moral question and justifying reasons are unnecessary. If fetal life is human life, then the answer is equally simple except in the case of saving the life of the mother. Deliberate abortion is never morally justifiable except possibly to save the life of the mother. This possible exception is a morally vexing problem. However, as the Criminal Code already permits abortion in

such a case, we need not develop the possible moral justification.

Reasons advanced at moral level to justify abortion

12. Six reasons are generally advanced for the moral justification of abortion: (1) the right of the mother over her own body; (2) the life of the mother; (3) the health of the mother; (4) the possible defect of the child; (5) post-natal socio-economic factors; and (6) circumstances of the pregnancy, i.e., rape or incest.

### Brief critique of reasons

13. With the possible exception of the life of the mother, the other reasons advanced assume either that fetal life is not human life, or that the sacredness of life is of lesser value than the reasons for the abortion. If fetal life is not human life, no reasons need be advanced. If fetal life is human life, the sacredness of life is of far greater value than these reasons.

## LEGAL PROBLEM

### Law and Morality

14. The absence of moral justification does not automatically resolve the legal hence social issue. For not everything legal is right, nor should every wrong be legally prohibited. And nothing that is right is right because it is legal. There exists a relation between morality and law. But the purpose of law is not simply to legislate morality, and definitely not to legislate the particular moral standards of one group or another. But there exists a relation between law and morality because law regulates human conduct and man is a moral being. The relation between law and morality is therefore to be found in human nature itself. And therefore the closer the social problem is to fundamental human values, the closer should the legislative enactment follow the moral imperative.

### Purposes of law

15. Law has several purposes: (1) to regulate human conduct and not only to prevent certain consequences; (2) to promote the common good, that is, a social atmosphere and reality for the personal fulfillment of each human being,—including fetal human life; (3) to educate the people and develop social values and attitudes; (4) to preserve life,—including fetal human life.

Public policy and philosophy in Canada

16. The *Canadian Bill of Rights* sets forth unequivocally the public philosophy of this nation. In the preamble the Parliament of Canada affirms that the Canadian Nation is founded upon principles that acknowledge the supremacy of God, the dignity and worth of the human person and the position of the family in a society of free men and free institutions. Parliament also affirms that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law. This public philosophy enacted as law must remain the firm foundation of all legislative measures including those relating to abortion.

Due process of law

Equality before the law and protection of the law

17. Accordingly section 1 of the *Canadian Bill of Rights* can and must be invoked in the abortion issue. Section 1(a) recognizes and declares the continued existence in Canada of the fundamental human right of the individual to life and the right not to be deprived thereof except by due process of law. Likewise section 1(b) recognizes and declares the right of the individual to equality before the law and the protection of the law. If fetal life is not human life then these rights and fundamental freedoms are inapplicable. If fetal life is human life then the conclusion is unmistakable. And one must repeat that where human life is concerned, to be civilized is to be conservative.

Criminal law

18. Stephen in his *History of Criminal Law* describes criminal law as follows: "The criminal law is that part of the law which relates to the definitions and punishments of acts or omissions which are punished as being

1. attacks upon public order, internal or external; or

2. abuses or obstructions of public authority; or

3. acts injurious to the public in general; or

4. attacks upon the persons of individuals, or upon rights annexed to their persons; or

5. attacks upon the property of individuals or rights connected with, and similar to rights of property."

The Committee should therefore consider carefully these categories before recommend-

ing the liberalization of existing criminal legislation concerning abortion.

Tests to apply re legislation

19. The purposes of law, our public philosophy, the nature of criminal law, and the delicate relation between morality and law must be kept in mind before a decision can be taken to liberalize abortion laws. We suggest that the following tests must be applied and ought to determine whether abortion laws be liberalized, and that the answers must be clear, concrete, and unequivocal before the laws are changed.

i—what precisely is the social problem to be remedied?

ii—will the remedy solve the problem?

iii—will the remedy create further problems?

iv—will any benefit gained outweigh any harm created?

The social problem

20. The social problem to be remedied is abortions performed by non-licensed medical practitioners. The various reasons attempting to justify abortion at the moral level are therefore irrelevant to the solution of the legal hence social problem.

Will liberal abortion laws solve the problem  
Glanville Williams

21. In the absence of reliable statistical data about the experience of other countries, the answer to this question is hypothetical, speculative, and therefore irrelevant to the concrete task of this Committee. Pro-liberalizers have their statistics. Anti-liberalizers have theirs. Apparently each group can support its position with statistics. Obviously the existing statistics are unreliable. This is confirmed by the international conference on abortion already referred to where 75 experts in law, medicine, and the social sciences agreed that they needed much more knowledge before they could resolve either the moral or legal problem. And the evidence, meagre as it is, suggests that the remedy proposed does not solve the problem. Glanville Williams in his celebrated work *The Sanctity of Life and the Criminal Law* tells us the following about the Swedish experiment: "There is convincing evidence that it is to a large extent an entirely new clientele that is now granted legal abortion, that is to say women who would not have had an illegal abortion if they had been refused the legal one. Although the social result is rather to add the total of legal abortions to the total

of illegal abortions than to reduce the number of illegal abortions, a body of medical opinion refuses to regret the legal abortions on this account." This Committee must therefore have solid reliable statistical data before it answers this question. The evidence to date before this Committee appears to confirm that such reliable data is yet unavailable and therefore that any conclusion is premature and unfounded.

#### Creation of further problems

Konrad Lorenz

22. A purpose of law is educative. Law develops social values and attitudes. A law that blesses abortion for reasons of convenience creates attitudes towards pregnancy, motherhood, the rearing of children,—towards life itself. Such attitudes take root in our generation and become the heritage of future generations. In years to come our society will have lost the reverent awe and love of life. In this perspective, it is better to say nothing than positively to endorse abortion as a good for society. But in saying nothing, further problems result; abortion on demand; identification of abortion as a mere contraceptive measure; hence a further depreciation of the sanctity of life. Is there not a strange, sophisticated, unreasoned, unexplainable madness in a body politic intent on the abolition of capital punishment because of the sanctity of life of the premeditated murderer, yet at the same time intent on the destruction of human fetal life because it is unseen and indefensible? Has Konrad Lorenz not put his finger on the explanation when he tells us: "If moral responsibility and unwillingness to kill have indubitably increased, the ease and emotional impunity of killing have increased at the same rate. The distance at which all shooting weapons take effect screens the killer against the stimulus situation which would otherwise activate his killing inhibitions. The deep, emotional layers of our personality simply do not register the fact that the crooking of the forefinger to release a shot tears the entrails of another man. No sane man would even go rabbit hunting for pleasure if the necessity of killing his prey with his natural weapons brought home to him the full, emotional realization of what he is actually doing"?

#### Maternal consent

23. If the possible defect of the child-to-be-born is from a social point of view sufficient justification for abortion, why should the decision rest with the mother? Why should

her consent be the deciding factor? Why should the state not intervene as *parens patriae* to decree abortion regardless of the mother's wishes? And why should the state not intervene as *parens patriae* to decree that the child shall live regardless of the mother's wishes? Maternal consent is not the issue. The issue is the value we place on nascent life precisely because it is nascent life, incapable of self-defence, entitled to come to birth because of its divine destiny.

#### Balancing of factors

Jeffcoate

24. There is no evidence to justify broadening of the existing abortion laws. For even if the social problem of unprofessional abortions were resolved, it would be resolved at the expense of human life and the social and personal value we attach to life. Let us recall Jeffcoate's words: "The destruction of the living embryo offends something fundamental in human nature, and the most scientifically detached gynaecologist cannot fail to approach the operation with an uneasiness which has been variously accredited to 'primordial revulsion' and 'subtle archaic motives'."

#### Real problem

25. The problem of abortion is simply that it is abortion. The answer is not to make it legal or semi-legal but to make it unnecessary. The problem of abortion should therefore be attacked at the roots—conception. Responsible sexual attitudes; responsible contraceptive measures; responsible social attitudes and measures towards the less fortunate, towards the unwed mother; birth control clinics; economic measures; family assistance. These complex and inter-related problems are at the root of the abortion problem which should be resolved with breadth of vision and judgment, with respect for life, with love for the unseen life in the womb whose destiny is fundamentally no different from our own.

#### RECOMMENDATIONS

In the light of the foregoing we therefore recommend:

1. That grounds for abortion not be broadened unless and until reliable statistical data exists and is obtained regarding the experience of all countries and which data will stand the tests proposed in paragraph 19 herein.

2. That the criminal law be clarified to state clearly that an abortion to save the life of the mother is permissible provided two duly licensed medical practitioners who are specialists in gynaecology or obstetrics certify by affidavit that the abortion is necessary for that purpose.

3. That the criminal law be clarified to state clearly that, except for the circumstances in no. 2 above, those seeking or performing an abortion shall be liable to criminal prosecution.

4. That the criminal law be clarified to provide for a legal definition of human being.

5. That the criminal law be clarified to state clearly that measures to avoid pregnancy in cases of rape or incest are permissible on the recommendation of two licensed medi-

cal practitioners and with the consent of the local Crown Attorney.

6. That all provisions in the Criminal Code relating to the advertisement, sale or use of contraceptive measures be rescinded.

7. That a sub-committee of your Standing Committee be created to enquire into and report back to the Standing Committee on the effects of liberalized abortion laws in other countries, such sub-committee to be assisted with all financial means required for such study and report.

8. That Canada recommend to the United Nations that an appropriate agency of the UN enquire into and report in depth on abortion laws and practices around the world.

All of which is respectfully submitted.

David Dehler

(1)

HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1967

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STANDING COMMITTEE  
ON  
**HEALTH AND WELFARE**

*Chairman:* Mr. HARRY C. HARLEY

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MINUTES OF PROCEEDINGS AND EVIDENCE

No. 11

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THURSDAY, NOVEMBER 30, 1967

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Respecting the subject-matters of

Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

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WITNESSES:

Mr. Barrie Holmes of Weston, Ontario, and Mr. John Hackett  
of Downsview, Ontario.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1967

STANDING COMMITTEE  
ON  
HEALTH AND WELFARE

*Chairman:* Mr. Harry C. Harley

*Vice-Chairman:* Mr. Gaston Isabelle

and

Mr. Allmand,	Mr. Forrestall,	Mr. Orange,
Mr. Ballard,	Mr. Howe ( <i>Wellington-</i>	Mrs. Rideout,
Mr. Brand,	<i>Huron</i> ),	Mr. Rochon,
Mr. Brown,	Mr. Knowles,	Mr. Rock,
Mr. Cameron ( <i>High</i>	Mr. MacDonald ( <i>Prince</i> ),	Mr. Rynard,
<i>Park</i> ),	Mrs. MacInnis ( <i>Van-</i>	Mr. Simard,
Mr. Chatterton,	<i>couver-Kingsway</i> ),	Mr. Stanbury—(24).
Mr. Cowan,	Mr. Matte,	
Mr. Enns,	Mr. O'Keefe,	

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

THURSDAY, November 30, 1967.

(12)

The Standing Committee on Health and Welfare met this day at 11:22 o'clock a.m., the Chairman, Mr. Harry C. Harley, presided.

*Members present:* Mrs. MacInnis, Messrs. Allmand, Brand, Cowan, Enns, Forrestall, Harley, Isabelle, MacDonald (*Prince*), Matte (10).

*In attendance:* Mr. Barrie Holmes of Weston, Ontario and Mr. John Hackett of Downsview, Ontario.

The Chairman informed the Members that the Subcommittee has discussed the order of business and recommends that the hearings be extended into January, which was approved.

*Ordered,*—That the proposed schedule be circulated to the members.

*Agreed,*—That the present law pertaining to abortion, being sections 209, 237 and 238 of the Criminal Code be printed in the Minutes of Proceedings and Evidence of the Committee (*see Appendix "S"*).

The Chairman introduced Messrs. Holmes and Hackett.

Mr. Holmes obtained permission to withdraw part of a paragraph on page 27 of his brief and commented on statements contained in his brief.

Mr. Hackett made a statement.

*Agreed,*—That the briefs submitted by Messrs. Holmes and Hackett, including the Back Flap be printed as appendices to this day's proceedings (*see Appendices "T", "U" and "V"*).

At this point, the Chairman acknowledged receipt of a letter from the Secretary of The Canadian Committee on the Status of Women expressing the views of that Committee on the subject of abortion.

*Agreed,*—That the representations of The Canadian Committee on the Status of Women be printed as an appendix to this day's proceedings (*see Appendix "W"*).

Messrs. Holmes and Hackett were questioned.

The questioning concluded at 1:30 p.m. the Committee adjourned to 11:00 o'clock a.m. Tuesday, December 5, when the Board of Evangelism and Social Action of the Presbyterian Church in Canada will present a brief.

Gabrielle Savard,  
*Clerk of the Committee.*



## EVIDENCE

(Recorded by Electronic Apparatus)

Thursday, November 30, 1967

• (11:24 a.m.)

**The Chairman:** Ladies and gentlemen, we will now start this morning's meeting.

Before proceeding with the witnesses, I would like to inform the Committee that there has been a meeting of the Steering Committee at which we discussed the schedule of meetings. As you are all aware, we had hoped to be able to finish our hearings by the middle of December and have a report sent to the House. Since then we have had so many requests and had to change so many dates that we are meeting on the average of twice a week. Because of the number of people and associations who want to present briefs we have had to extend the date for presentations to January 23; and it will probably go much beyond that—until at least the end of January. This is just a question of time. Some weeks we are going to have three witnesses, and even then we are still going to have to go beyond the Christmas season.

Before I forget, the witness who was coming tomorrow morning from London, Ontario, phoned today to say that she has the flu and will have to make a later appearance. Therefore, there will be no meeting tomorrow morning. You will all be getting written confirmation that it has been cancelled.

**Mr. Enns:** Before you proceed, and relating to the extension of the dates of hearings, I believe the Canadian Welfare Council advised us not too long ago that they would not be able to appear with their prepared brief before the end of the year. Will they now be apprised of the extension of the dates of hearings?

**The Chairman:** Yes; we have already been in touch with them, and have tentatively scheduled them for January 23.

**Mr. Enns:** That is fine.

**The Chairman:** Even by that time, they say they will not have been able to approach

all of their member agencies, but at least they will have a consensus from some of them.

**Mr. Enns:** As long as they know of the extended date.

**The Chairman:** If it is the wish of the Committee, perhaps the easiest way would be to have the proposed schedule of meetings in the future attached as an appendix to today's meeting.

I ask for a formal motion to approve this report.

**Mr. MacDonald (Prince):** Or circulated.

**The Chairman:** Whichever you like. Would you rather have it circulated?

**Some hon. Members:** Agreed.

**The Chairman:** We will circulate it.

[Translation]

**Mr. Matte:** Mr. Chairman, on a point of order. Many people have asked me when we are to receive the official Minutes of Proceedings and Evidence of the Committee published in French. Eight issues of the Committee's Minutes of Proceedings and Evidence have already been printed in English, while only two have been printed in French. I believe that these are the little things which often antagonize French Canadians, and reasonably so. I wonder if we could not make an effort to have the Committee's Minutes of Proceedings and Evidence in French as soon as possible?

[English]

**The Chairman:** We will be glad to get in touch with the Translation Service and the Printing Bureau to see what is causing the delay. I am informed that it is the Translation Service.

The problem is that there are no translators on the staff of the House of Commons. The proceedings have to be sent to the Blackburn Building to be translated, and from there they are scattered all over.

I also thought it might be useful to have the present law pertaining to abortion, that

is, sections 209, 237 and 238 of the Criminal Code, printed as part of today's record. Is it agreed that we do that?

**Some hon. Members:** Agreed.

**The Chairman:** The Steering Committee has also suggested that the Chairman and the Clerk try to obtain from the chiefs of police of Montreal, Toronto and Vancouver, three of our biggest cities, some statistics of reported illegal abortions in their cities. These would give us some idea of the statistics involved, if they are available.

We have two witnesses with us this morning, each of whom has prepared a brief which has been in your hands for some time: Mr. John Hackett of Downsview, Ontario, and Mr. Barry Holmes, the editor of the *Weston Times* in Weston, Ontario. I am going to allow them to make a short statement, and then the meeting will be open for questioning. I will start first with Mr. Holmes.

**Mr. Cowan:** Could you tell us where Weston is, Mr. Chairman?

**The Chairman:** It is a small town near Toronto. It has gone down greatly since it became amalgamated with the city of Toronto!

**Mr. Cowan:** I thought you knew the place.

**The Chairman:** Yes; I was born there, Mr. Cowan, as you know.

**Mr. Cowan:** I am glad that you were not aborted there, Harry.

**Mr. Knowles:** I thought it was a CPR section of Winnipeg.

**Mr. Barry M. Holmes (Editor of *Weston Times*, Weston, Ontario):** Mr. Chairman and distinguished members of the Health and Welfare Committee, may I take this opportunity to say how grateful I am for the opportunity to appear before a group of parliamentarians who are investigating the social and legal issues involved in the question of abortion. It is a very serious matter, and that is why Mr. Hackett and I are here.

It is also a privilege for us free citizens to be invited to appear before representatives of Parliament and make submissions involving issues that affect us, as individuals, and the country as a whole.

• (11:30 a.m.)

With your permission, Mr. Chairman, may I say that the brief before you involves many hours of the labour of another person as well as myself. May I thank my very dear friend, Mrs. Hannah Bedell, for the great deal of time she devoted to transcribing my rough notes into the legible document that you have before you. Also with your indulgence, Mr. Chairman, if I stumble, or appear somewhat shaky in the way I deliver my address, may I make the confession that this is only the second speech I have ever made in my life. The first occasion of my addressing a group of people was at a banquet after my marriage, and at that time I assured my mother-in-law that I would take good care of her daughter.

**Mr. Knowles:** You may have stumbled on that occasion.

**Mr. Holmes:** Yes; I made my swan song.

Before I make any comments on my brief and on what I think are some of the social issues, I would like to withdraw half paragraph on page 27. On page 27, the fifth paragraph down, we are talking about polls and whether public polls can be relied upon, or whether they are sometimes like the wind and change directions from day to day and hour to hour, and so on:

Unquestionably this is a prejudiced question and as such one would naturally expect prejudiced results. If the writer of this brief were asked that question, he would be one of those to say "yes" for liberalized abortion in that he doesn't believe that a woman has to be literally in the jaws of death before the law should permit an abortion...

The part I would like to scratch from the record, if I may, is:

... nor does he believe...

That is, me.

...that a woman should be forced to carry a baby to birth if a doctor positively establishes that her offspring will be a mongoloid, without spine or such other tragic abnormalities that it could not possibly survive more than a few months after birth even with great care.

It has been brought to my attention that doctors cannot predict positively the kind of child at birth, at the age of three months. I think this will happen, that some day we can

predict this, but I think it is 20 or 50 years in advance.

I made one mistake here; I called it a mongoloid baby, and I think that is a very rough and crude expression. I think it is a Down syndrome; I have done a little more research since then. It was Dr. Langdon Down, in 1866, who saw a baby that was not normal and said, "Oh, that is a mongoloid", because it had something wrong with its eyes and it looked more like a baby of another race. I think this is a terrible word that we have brought into the English language. It is something like the word "nigger"; it has no relevance when we are talking about humanity, and talking of major issues; it is a sort of guttural expression, and that is why I would like to withdraw that part of the paragraph.

**Some hon. Members:** Agreed.

**Mr. Holmes:** I would like to go through small sections of my brief; I will do it as quickly as I can, and possibly make some comments on what I have said, and why, and so on.

On page 3, this is my opinion of the responsibility of the Health and Welfare Committee:

Before any conclusive, fair, beneficial or humanitarian recommendations can be made by the Committee of Health and Welfare to Parliament concerning possible amendments to the Criminal Code of Canada where they touch on abortion, this brief contends it must first be established, that the foetus is a human being, or clearly established that the foetus is not a human being.

I think we have to be as clear as we possibly can on this issue. I think this is the central issue on abortion, and I think that is why we are all sitting here. We have got to use all the medical evidence and everything we have at our disposal to establish exactly what a foetus is. If we say we think it is a human being but we are not sure it seems, in my opinion anyhow, that we might give it the benefit of the doubt; just the same as we say that we know that a man who has committed murder under the law as it is now, I believe, may be hanged if he is convicted of such a crime, but we are in doubt whether we have a real right to take this man's life just because he has taken the life of another. So, whether we should take the life of a very innocent child, a child who did not even ask

to be brought into this world, I think we must examine very, very closely. We have got to know it is a human being.

Also there is a magnificent book called *The First Nine Months of Life*, written by Geraldine Flanagan, and she is a *Life* magazine reporter, I believe, of about nine years standing. She specializes in medical writing and that kind of thing. I believe this is the first book she ever wrote, but it is a beautiful little book. It has pictures of foetuses and embryos, and it starts out from the beginning. I have used it as a sort of Bible, so far as my brief is concerned.

We have made a summary, or a résumé, a copy of which I believe you have on your desk. It starts off without much significance and talks about a portrait of 40 days. This is about the time you are beginning to task about aborting unborn children. It is not until 30 days after she becomes pregnant that a woman is aware of the fact, so, it seems that the majority, if not all, induced abortions would take place after 30 days. So, we start off from 40 days:

"Forty days after mother and father have come together to create a child, the child will look just like the embryo baby in this photograph. Barely six weeks after its first beginning, the embryo has a well-formed body. *It has a heart that has been beating for two weeks. It has a brain... it is already possible to know whether the embryo is a boy or girl.*

I think this is the kind of evidence that we have to examine. This book, *The First Nine Months of Life*, is not the only book that contains this information. It is in the *Encyclopaedia Britannica*, and it is in many, many medical books.

Now, once we establish whether a foetus is a human being, or whether it is not a human being, I think we are then in a position to say whether we are going to permit abortion or not, and if we are going to permit abortion, on what grounds. Certainly there is a ground today, which is to protect the life of the mother; nobody wants to see the mother die. If we extend this a little further, if the mother dies the foetus obviously is going to die with her. So, it seems that the present law as it stands, at least for this purpose—to save the life of the mother—is very valid, and very good.

On page 5, I have a paragraph quoting from the book, *The First Nine Months of Life* again, and author Flanagan says:

"The prize—

We are talking about intra-uterine medicine and mothering, and so on.

—is also that we can try to be as intelligent about 'intra-uterine' mothering as we try to be today about care of our children after they are born. This increased awareness can also bear the fruit of increased enjoyment."

I think this is rather interesting, too. When we talk about mothering in the uterus and so on, we always talk about this as being a child, as being a human being. In popular magazines, and so on, when they are advising mother what to do, that she should not smoke or drink during pregnancy, that she should take care of herself and have lots of sleep, I have not seen any reference to its being a potential life.

They talk about mother with child, and there is no question of that, but when you start to get into this issue of a pregnant mother who, for some reason, does not want the child—and certainly she deserves an awful lot of sympathy—this creates an awful lot of problems and can leave scars on her mind in certain instance for the rest of her life.

• (11:40 a.m.)

But when we start talking about abortion, we start talking about its being a non-human, so it seems there is a terrible conflict there. We say that it is a human being if it is wanted, and that it is a non-human being if it is not wanted. It is absolute, utter stupidity that we, as human beings, as rational people who are supposed to follow the patterns of rational behavior, do not get together and define our terms and say "Well, let us talk about this blob that is nothing", even though the woman wants it, and wants to bring it to birth. Or else we should go the other way and say, "All right, we will say that this is a human child", when she does not want it, and then decide whether we are going to abort it or not. I think we should try to clarify our language.

I think that science and medicine, and particularly people as responsible as the members of the Health and Welfare Committee who are going to make a very significant recommendation to Parliament that may

have profound effects on the future of Canada and on medicine and so on, should try to define our terms so that we know whether it is a human or it is not a human.

If it is not a human being, I am fully in accord with any person who wants an abortion on request. I do not think there is any question at all that a woman should be allowed to have it. If it has no more significance than the foetus of a cow, I have no objection to aborting foetuses in cows and I would not have any objection to aborting foetuses in women.

We were talking about intrauterine medicine. I received a News Release Communique from the Canadian Medical Association the other day, which is rather interesting. Intrauterine medicine is a rapidly-developing science in itself. We can treat people for many, many diseases and many problems, mental and physical, when they are born, but we have not done a great deal for the unborn; medical science has not advanced that far. The release mentions that there are 28,000 women who could be asking for an abortion because they are afraid of having a deformed or stillborn child. Here is what medicine can do. It is entitled "Rh immunization", by "D. A. Geekie, Secretary-Public Relations" and it is headed:

#### HELP WANTED

Young healthy men to provide a special blood bank for the protection of expectant mothers and their unborn children. No previous experience required but must have Rh negative blood type. Apply to your local Red Cross Blood Transfusion Clinic.

You may not see this ad for 20 years or so but a report and editorial in the Canadian Medical Association Journal lead us to believe that it may well be used in the future.

Each year 28,000 Canadian women risk giving birth to a deformed or stillborn child because of a "conflict" between the blood type of the mother and her child. The trouble occurs when the mother has Rh negative and the child has Rh positive blood. Since blood type is inherited, husbands of expectant Rh negative women are frequently requested to have a blood test as part of their wife's prenatal investigation. Such children are said to have an "Rh condition".

Until recently only a percentage of these women could be helped by providing a complete blood change immediately after birth. During the past two years a technique has been developed to provide the child with a partial blood transfusion before birth. This method helped a few more of these children for whom a transfusion following the birth would have been too late. However, doctors have pointed out that intrauterine blood transfusion for these children is far from perfect and a risky procedure.

I think that in 10, 15 or 20 years, as it says here, we are going to give blood transfusions and will be able to look after Rh negative blood and blue babies so that there is no possibility of deformity, and I do not know that we should abort babies until this time arrives. There is a certain amount they can do today, and they are working hard on this problem. There are many, many other fields. There are serums for rubella, and so on. It is going to throw that out as a pro-abortionist argument.

I now turn to page 8. Here I am rather repeating myself, but I think it is the key and the very substance of this whole debate on the question of abortion and the possibility of amending the Criminal Code to permit more so-called "liberalized" abortions, or just to clear up the details of the present law so that it is more specific in intent and doctors will know exactly where they stand. We have heard doctors who complain that they do not know whether they are entitled to abort or not under the present law, and in some cases one doctor will and another will not.

Perhaps the next paragraph, . . . the second one down,

#### THE KEY PREMISE

. . . is the clincher on which the author of this brief will permit his entire presentation on the abortion question to stand or fall. If this paragraph can be proven to be substantially inaccurate, proven beyond any reasonable doubt that the embryo is *not* human, then let it be said that the pregnant woman has a perfect right to demand an abortion any time she wishes.

The paragraph about to be quoted, however, this writer suggests, demonstrates that we have every reason to

believe, until proven wrong if such proof exists, that the embryo, and fetus that follows, and the baby that follows that, right up to the readers of this brief, are all human beings varying only in degree of size.

—and I have added another word—age, shape, sex, religion, race and intelligence. . .

—we will throw "religion" right out, because I am a non-religious person—

occupation, place of abode and so on. The author of 'The First Nine Months of Life' states: "When the embryo reaches (its seventh week) such completion (functioning heart, brain, kidneys and so on)

—which are all definitely human functions—

safely and without impairment, it has a good start in life. Now it is ready to enter the next phase of development. Until adulthood. . .

—and this, I think, is a key phrase here. I think there are many other embryologists who will attest to this as well as the eminent physicians who attest to this book—

Until adulthood; when full growth is reached between the years of twenty-five and twenty-seven, the changes in the body will be *mainly in dimension* and in gradual refinement of working parts.

Therefore, we have all the parts, some of them not yet working, just as you have a boy or girl of four or five who have to reach the age of puberty, which is around, 13 to 15, before they can be reproductive. We have these various stages of human development. A baby is not less human than an adult because it cannot reproduce its species. It does, however, have sperm cells I believe, in various forms of development, as well as egg cells in the female.

I go to the next paragraph,

In other words, it might be reasonably concluded that certainly from the seventh week on, and from pure logic from the point of nidation on, or from the point of pregnancy on, the embryo *must* be a human being. Yet the majority of countries with so-called "liberal" abortion laws permit people who give an oath to have life—these are the doctors—to kill human beings up to three months old,

if it is requested by the mother or they think there are some other facts on which it should be done.

I now turn to page 9, and the heading:

#### SOCIETY'S RESPONSIBILITY

Someone once said: "Where there is correct thought, right action will follow." This maxim could apply to no situation more than the need to teach future adults about the fact of life in home and school.

Before exploring the abortion question in more depth, it is enough to say that the Federal Government is to a great extent responsible for the unwanted conceptions that two and three months later have resulted in criminal abortions and in some instances, tragedy.

I do not think there is any question that the members of the government, the leaders in the government, the people who are setting the trend for tomorrow, with, perhaps, humanitarian motives at heart, try to look at the overall problem instead of a specific, selfish point of view whether it be the result of prejudice or a preconceived notion, or something of this sort. There is this terrible law that we have had in the Criminal Code prohibiting dissemination of birth control information and devices, and so on. In the newspapers one reads every day of the struggle that ministers of health and medical officers of health have. I remember Dr. Bull, the Medical Officer of Health in Scarborough, saying, defiantly, "Yes, we are setting up a clinic for birth control and we are going to take our chances". This kind of thing happens.

• (11:50 a.m.)

We are all partly responsible for many, many of these women finding themselves pregnant. In many cases it could have been prevented just by using a method of birth control, which is accepted by the United Nations and by the majority of the parliamentarians in Canada. This has caused much of the problem.

It is really a tragedy that our Parliament and society, which, after all, elects its representatives to Parliament, are to a great degree responsible for the plight of the pregnant woman. She is in an unenviable position—certainly not one that I would like to be in.

#### A NATURAL RIGHT TO LIFE

One of the most compelling arguments that must be answered...

This is on page 11,

... by those who contend that deliberate abortion is usually deliberate murder is to establish that the human foetus is a human being, is *not* part of its mother's body...

I think that all members of this Committee are aware of this fact. I have been assured by doctors and have read in many many places that the human foetus is not part of its mother. One argument used is that it is part of my body, that I have a right to do what I want with it and you meddling people in Parliament or you meddling people in society, you clergymen and so on, have no right to tell me whether I want an abortion or not because that is between me and my doctor. I think this is totally wrong. If we had more education in schools, more books that are as magnificent and as touching as *The First Nine Months of Life*, I do not think there would be a woman in Canada who would say "It is part of my body". It has its own circulatory system. It does not even have the blood of its mother. There is a placental substance between the mother and the child and this is sort of the miracle of the gift of life to that child. This is the spoon that is feeding this baby, the milk bottle that is feeding it, supplying it with the oxygen and so on. There is no relationship. It has its own heart that pumps at 65 times a minute. I do not know whether or not it is in synchronization with the mother's heart, but often babies have different blood types from the mothers, which is further proof that a foetus and an embryo is a separate universe in itself. I hope that if and when this question on abortion comes to a vote every member of Parliament will be aware of this fact. It would be a tragedy if some people go into this thing in pure ignorance and say that they are voting in a certain way because they got ten or fifty letters from constituents saying that they are in favour of abortion and only five or twenty letters saying they are against it. I do not think that is the way to do it.

**Mr. Knowles:** Do you think maybe we should vote the opposite way if the letters came the opposite way?

**Mr. Holmes:** No I do not. I think it is up to every member to make up his own mind.

**Mr. Cowan:** Not the party to make it up for them?

**Mr. Holmes:** No. I think this should be a free vote. Honest to goodness, you did a magnificent job on capital punishment in a free vote and I think that this issue is even more important than capital punishment.

**Mr. Cowan:** They gave us in '66 a free vote.

**Mr. Holmes:** I missed that remark.

**An hon. Member:** That was the first free vote.

**Mr. Holmes:** Then on page 12:

If there is no other solution, one sure way of solving the poverty problem would be to slaughter all those living below what is commonly known as the poverty line.

I feel very very deeply about poverty and about the problems in this country. I feel very deeply for the working man. I have worked in steel mills in Hamilton, I have sold magazines on the road, I have done a number of other jobs, and he is the guy that seems to have all the problems. He is poor, unlike us who are sitting here with our fairly good incomes from different sources and so on. Anyhow we have a great many people living below what we call a poverty line. If we killed them all this would undoubtedly put millions of Canadians out of their misery and yet every fibre in our human bodies tells us that such a decision would be a crime against humanity equal in history to Hitler's systematic extermination of millions of Jews. Now Hitler had a problem in Germany, or he thought he did, and this was his answer for it. So one way of abolishing all unemployed people and all cripples that have to spend years and months in hospitals and so on would be to kill them, and we do not do that because we know we are not going to solve any social problem. We know that the population is going to continue to increase, that we are going to have more people living in slums, unemployed and so on, after we kill this crop, and being humanitarians we know there is a better way to solve these major social problems. In that sense abortion is not going to solve any over-all social problem. Unwanted children is a terrible thing.

**Mr. Enns:** Surely there is no suggestion in any of the three bills before the Committee that this would be anything but an elective act. No authoritarian stand will be taken by any government on who shall live or who shall abort. It is strictly permissive.

**Mr. Holmes:** I think there is in cases of unwanted children, if you are talking about them.

**Mr. Enns:** No, no.

**Mrs. MacInnis (Vancouver-Kingsway):** There is no suggestion whatever in any one of these bills that once a baby is born there shall be any attempt to kill it.

**Mr. Enns:** None at all.

**Mr. Holmes:** All right. So the baby is eight months old and it is murdered, and we know at eight months that there is no question—

**Mrs. MacInnis (Vancouver-Kingsway):** We are not getting into the argument; we are just dealing with a question of facts. None of the bills suggests that once the baby is born there shall be any attempt to kill it.

**Mr. Holmes:** Thank God for that.

**Mrs. MacInnis (Vancouver-Kingsway):** All right, so suppose we just stick to the facts.

**Mr. Holmes:** All right, we will stick to the facts.

**Mr. Knowles:** And none of the bills compels an abortion on anyone.

**Mrs. MacInnis (Vancouver-Kingsway):** No.

**Mr. Holmes:** I am trying to equate this. If you are talking about a human being—and this is the point I am trying to make here—if it is a human being and you abort it you are definitely killing it. It is a human life, and there is no question about that. Whether it is a human being is where you might get into a little debate, if you like.

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, on a point of order, I am objecting to what he says after birth about all the cripples and everything else. I do not think that that should be let go unchallenged...

**Mr. Holmes:** All right.

**Mrs. MacInnis (Vancouver-Kingsway):** ...because none of the bills deals with anything after birth. Please leave out all the

lyrical business about Hitler because we are not dealing with that at all. You would be better to deal with the before birth.

**Mr. Cowan:** They just want you to talk about murder before birth; they do not want you talking about after birth.

**Mr. Holmes:** I will say that one thing we can do, where the mother and father are diabetics and there is a great chance that the child, when born, will be a diabetic too, or will be born with a hole in its heart—there are family case histories where doctors have predicted some of these things fairly accurately—is abort all these children so we will not have the problem after they are born. We will not have any diabetic problem or any hole-in-the-heart surgery which may cost \$2000 in a hospital. We will not have any of these problems.

**Mr. Knowles:** Is not that person a human being?

**Mr. Holmes:** I think he is, yes. Do you not?

**Mr. Knowles:** That is the whole argument of your case. I am pleasantly surprised and despite what seemed to be an absolute position on your part you state that there are cases where maybe abortion is indicated.

**Mr. Holmes:** Actually I suppose, Mr. Knowles, that I was being a little bit harsh and I thought it would be taken as such and I will apologize. What I meant by that was although it would be possible to prevent unwanted children such as diabetics and those with holes in their hearts by doctors doing abortions, I am totally opposed to that. I think we have hospitals and so on that can look after these particular children. I think members of the Committee, those who are for abortion and those who are against it, are almost unanimous that the real over-all solution to the question of abortion is the avoidance of pregnancy. I think, again, that it is so important that the churches, the planned parenthood organizations, private agencies, the medical profession and so on take great pains to encourage potential mothers or women who may become mothers someday not to become pregnant if they do not want to be. Also I think schools should teach our children at a younger age the miracle of their bodies, and whether you are religious or not you have to consider the human frame, the human mind and so on—quite a miracle. Actually, the reproductive process is

a beautiful study. I think if all youngsters were properly taught by their parents, the schools, the medical associations and so on, that you would not find so many women and girls becoming pregnant if they did not want to be. They would either use birth control methods, because they would be familiar with them or they would go by the advice of their elders, that maybe the time to get involved in sex play and so on is during your engagement or after you get married rather than for social kicks, because it is daring and something to do, or because all the kids down the street are doing it. I know a woman who has a daughter who was going to go to a university to pursue an education and she became pregnant. This fairly well educated girl came from a warm and loving home, and in this case—there was no question in the mother's or the daughter's mind that there was going to be an abortion. This girl has several brothers and they were all told what happened and they have all rallied around the flag. This girl is being very well looked after and she is going to deliver her child and then go on to university. I think this again is because of her fairly liberal upbringing as a young girl. She is aware of the birth process and the fact that she would be destroying a human life within her if she had an abortion but she is taking, let us say, the hard way out—although this is certainly the humanitarian way out. She is not going to kill a life so that she can enter university with the rest of the kids. She is going to wait a year and then she is going to go to university.

• (12 noon)

Here is something that came up before the Health and Welfare Committee on the matter of birth control, and I thought it was rather good. Dr. Frank Fidler of Toronto, President of the Family Planning Federation of Canada, on page 13 was quoted as saying:

I think family planning is a part of total sex education which has been extremely deficient, not only in Quebec where I live, but generally in the whole of North America. I think that while we try to promote information on family planning, we will have to do a terrific amount of work on sex education at the same time.

I think this next paragraph is a gem, it is a real clincher:

I was asked on a television program about two weeks ago, by an interviewer

who probably wanted to put me on the spot, what I would do if a young girl came into my office and asked me for pills? I told her that my duty as a doctor was to inform her, not to moralize or preach her sermons, and that I would rather give her pills than have her come back in two months asking me for the name of an abortionist. That is the way I look at it, on the theory of the lesser evil.

**Mr. Knowles:** Just as a matter of record, would you mind telling me where that quote is from?

**Mr. Holmes:** Yes. It is from the Minutes of the Health and Welfare Committee and this matter came up when you were on the question of birth control.

**Mr. Knowles:** From the way it is worded in your brief it looks as though it came from Frank Fidler. I do not think he is a medical man.

**Mr. Holmes:** Is Dr. Frank Fidler not a medical man?

**Mrs. MacInnis (Vancouver-Kingsway):** As a matter of fact, that quotation you injected was made by a doctor from Quebec City.

**Mr. Holmes:** It was?

**Mrs. MacInnis (Vancouver-Kingsway):** I forget his name but...

**Mr. Isabelle:** He is from Montreal.

**The Chairman:** I think it was Dr. Mongeau.

**Mr. Holmes:** Dr. Mongeau. May I make an apology to Dr. Mongeau and say that I would like to credit him with this. I am very sorry.

**The Chairman:** Dr. Fidler is a Doctor of Theology.

**Mr. Holmes:** I see. I guess he must have been speaking around that time. This was done by accident and I am very glad to be corrected on it.

**Mr. Brand:** That is too bad. It is rather a good name that was involved!

**Mr. Knowles:** That was a medical opinion.

**Mr. Holmes:** The third paragraph on page 13 reads:

In the Family Planning Federation of Canada brief attached as Appendix "A"

of the March 24, 1966 minutes, one paragraph shows the importance of birth control education (Page 123): "Evidence indicates that if family planning information were made available, the number of women seeking abortions and suffering the tragic results would be reduced.

They mention a hospital in Corpus Christi, Texas, where, after birth control was brought in, the number of abortions dropped substantially. It was something like 25 per cent. I have read literature concerning Australian hospitals where birth control information was freely disseminated and the abortion rate dropped in half, or even farther than that, which again stresses the importance of birth control rather than abortion.

Here is another case which illustrates that it is very hard for us to all speak the same language. The pro-abortionists and the anti-abortionists become very emotionally involved in these matters. It is unfortunate they cannot see eye to eye and agree on the basic premise. If they did they might arrive at the same conclusion. The sixth paragraph on page 14 reads:

The deaf-mute or blind for instance.

This is speaking about abortion under Britain's present law and if there is a substantial possibility these things can be predicted. I believe the present law of Britain is also contained in one of the bills submitted to this Committee. This reads:

If Britain's recently enacted abortion laws become part of the social structure here, it will soon be possible, by permitting abortions of those unborn children who may have a "physical or mental defect" to breed...

I will not go into racial breeding, I do not want to do that. It seems to me we are becoming awfully cynical when we talk about aborting anyone who is other than perfect. We do not want any cripples or epileptics in our society. We cannot be bothered with these people. One cannot help but feel—and possibly evidence could be obtained to substantiate this and almost make it fact—that the reason Britain has gone so far in recommending very strong pro-abortion legislation is that they are in a real social bind and social fix. They do not have enough housing and when families start having six and seven children it is very difficult to house them and they say, "What is the easy

answer to this?" We will give them an abortion. We will kill these children. They are unwanted. We do not have any place for them in our society. This is something that is terribly shocking and frightening. Thank goodness we have the know-how and the wealth in Canada to build enough housing for all our people. I think you will agree more than anyone else, Mr. Knowles, that we have the know-how and the wealth. It is just a case of not using it.

**Mr. Knowles:** But we are not doing it.

**Mr. Cowan:** We put it into Expo.

**Mr. Holmes:** We put it in Expo, we put it in the military, we put it in whatever one's opinion may be, but we are not putting it into housing, where it belongs. It frightens me to think that when the day comes when they can predict within the first three months exactly what condition a child will be in when it is born that they will abort all blind children even if the mother alone does not want to have a blind child. It scares me to think that mothers who do not want blind children would be allowed to abort them at three months, even if they are not allowed to kill them after they are born.

There is also this matter of the thalidomide babies, which is being used so strongly in favour of abortion. I think this is also a very serious and grave mistake. Because children have been born without hands or feet or with only one eye or with no ears, or something of this sort, I do not know if that gives us reason to think that if a child might have this deformity we therefore are going to abort that unborn child. I think medicine has learned a great deal from these children and I read of some doctor in Britain who said that we can have many more thalidomide tragedies, or tragedies of that nature, within the next two or three generations. Medicine is not capable of foreseeing these things and offsetting them before they happen. Mistakes can always occur. Once a mistake is made, I do not know if an abortion is the answer to that or not. Some of these thalidomide babies suffered only very, very minor deformities but those who suffered in a major way, such as no arms and no legs, I think we can also be thankful that the majority of them—certainly very many of them—were born with good brains. I think this is the no. 1 tool, not the hands or the feet or the legs or something else. As long as a person has a brain there is

a good deal of hope he can fulfill a very good life.

The second paragraph on page 15 reads:

Few societies kill the imperfect baby after birth and despite the position taken by most pro-abortionists, this brief contends that society would be making a grave error to permit the cold and calculated killing of an imperfect baby before birth.

If you consider this child to be a human being, I think you could call it a killing.

Do men have the right to express an opinion on abortion? I think they do. I think we are talking about the human race and reproduction of the human species and, as I suspect that men are at least 50 per cent responsible for the reproduction of the human species, we have as much right to talk about this as women.

The killing of an innocent child merely because the mother does not want it would be the same as adopting the primitive practices of the Chinese who used to throw their babies into the sea when the province was plagued by famine or war. Actually, I think they were a lot more humanitarian than we are when we were talking about this question.

• (12:10 p.m.)

We have the wealth and the institutions in Canada and childless couples that would very much like to have children can properly take care of these unwanted babies. I remember a case in Cooksville, Ontario, where a woman said, "I am all for abortion. Do you have any idea of the number of unwanted children who are running around in Cooksville?" I said "I suppose there are some, are there"? She said, "Oh, there are hundreds of them. If abortions were permitted we would not have all these unwanted kids running around Cooksville. Some people have five and six and eight children and they never look after their children in Cooksville." Why these families do not give up these unwanted children; why society does not encourage them to when there are so many people who want to have children and who want to love children, I do not understand. But certainly, I think education has to come into play here so that we might appreciate what we create when we become pregnant and have children.

There is another question here that I would like to discuss. That is clause 2, when a doctor predicts that there is a chance that the baby may have a serious abnormality because the mother contracted rubella during the first months of pregnancy. This is on page 18, the third paragraph down. Why should we kill the child that is going to be a perfectly normal child? This, to me, sounds like Russian roulette when you say: "Well, there is a chance in two that your child may be deformed so therefore, let us abort it." I have talked to several women who said that doctors had recommended abortion to them on the grounds of going to the hospital termination board and that they had refused and had had children who did not have any abnormalities. They were very happy that they had not let the doctor sway them. I do not know what business a doctor has in making such a recommendation anyhow, but I am not a medical man so that is not for me to say.

I typed out a list last night of reasons why there is such a strong demand for abortions and just touched lightly on a few of the answers.

Man and woman demand total sexual freedom. If woman becomes pregnant, she can abort her child as a last line of defence. You can have total sexual freedom if abortion is permitted. There is no question of that. You do not have to worry about becoming pregnant because you can march into the hospital as you can I believe, in some of the Eastern European countries and say: "Doctor, I am pregnant and I wish to be aborted." And he does it.

**Mr. Knowles:** Mr. Chairman, I still think the witness would be more helpful if he directed himself to the kind of bill before us and the kind of legislation that might be considered. Pardon me for interrupting, but there is not going to be any question time by the time you get through. It seems to me that these are flights of fancy into all these things. Nobody is proposing what you now put up as a straw man and knock down—that there be complete sexual freedom in the knowledge that anybody who, as a result of that sexual freedom, gets pregnant can get an abortion.

**Mr. Holmes:** Well, this is what they have in Eastern Europe so that it is established in some countries.

**Mr. Knowles:** But we are here in Ottawa, Canada.

**Mr. Holmes:** All right.

**Mr. Knowles:** We have before us three specific bills.

**Mr. Holmes:** We have one Bill, Mr. Knowles, which follows after the British Bill and I believe that...

**Mrs. MacInnis (Vancouver-Kingsway):** Which one?

**Mr. Holmes:** A minute ago, Mr. Hackett—he can help me here.

**The Chairman:** To me, the content of Mr. Herridge's Bill is such that it might mean that abortion would be available on request. It depends on the interpretation that you put on it.

**Mr. Holmes:** So you have some doctors—socio-economic grounds. This is a controversial clause. We have read a lot about this in newspapers, Mr. Knowles.

**Mr. Knowles:** Does Mr. Herridge's Bill propose abortion on the basis of complete freedom of sex?

**Mr. Holmes:** No.

**The Chairman:** Not on that basis.

**Mr. Holmes:** But this is what some women demand—and we are talking about Canadian society; we are in Canada and in Ottawa—total sexual freedom and there are leagues called free sex leagues and love leagues and all this kind of thing...

**Mr. Knowles:** But they have not been in front of us yet.

**Mr. Holmes:** Well, that is fine. I think it is a relevant part of the question, Mr. Knowles. I think this is one of the arguments that are being made.

**Mr. Knowles:** If you feel it is helpful to the argument, go ahead. I do not think it is.

**Mr. Holmes:** I see. Well, the answer to the women who demand abortion because it is part of their body and this is an established fact—it is not, but anyhow—is that there are birth control methods that can help. I have said that before and I think that is preferable to aborting an unwanted child. A family of seven or eight children cannot possibly support any more. Instead of abortion, as is obviously the answer in Britain, if they do not have the housing and the father does not

have the income to support any more children, I think—and some of the bills may tend to indicate or sort of push for this in this country—that this latest child should be given up for adoption rather than being killed prior to being born.

Husband deserts wife before pregnancy. Should this be a reason for abortion? It could possibly be under some of the bills that are before this Committee but I think society and the state should definitely take care of the family, when a husband leaves it, until this family is perfectly capable of fending for itself. The mother may also wish to give up her youngest child so that it might have a happier life somewhere else, but I think this should be purely her own decision.

Pregnancy will ruin a promising career. I touched on that. I think that bearing a child and giving it up for adoption, if necessary, is an awful lot better. Then she can resume her promising career or education or whatever it may be, nine months after she becomes pregnant. Abortion just is not the answer. It is not going to solve major social problems, even though it might seem like a little cure that solves a woman's immediate problem.

Pregnant under 16. This, of course, is a problem. I think that the Criminal Code calls statutory rape the case where a woman has sexual intercourse before she is 16. I think in cases like this, again, there are many, many girls who have had children under 16. They have been brought through it with loving care either at home or through a home for unwed mothers. The work the Children's Aid Society does is marvellous and there are many other institutions that care for unwed mothers and I think it is a lot better than abortion. I think the girls often learn a great deal, too. If a woman becomes pregnant and if a responsible man makes this woman pregnant prior to marriage, I think that if she goes through and has that child she is going to learn an awful lot about life. Unfortunately, there are very bitter and hard lessons to learn, but she can definitely bear that child and be a much better woman for it if she has proper medical advice and this kind of thing.

Damaging to the physical health. There is a great medical debate on this one. There is a reason for abortion damaging medical health. There is great debate among all doctors. Is it really going to injure this woman or is it going to be something temporary? Is it going to be something serious? Is it going to short-

en her life? Is it going to create a small handicap? In most cases, doctors working closely in sympathy with the women can prevent serious ill effects to mothers, and fortunately hospitals—and I believe this goes for all hospitals in Canada—will claim that abortion is necessary in very, very few cases to protect the mother's health. Now, there are cases in which they have to do it to protect the mother's life but it seems that pregnancy does not very often injure that woman.

• (12:20 p.m.)

Another one is social attitudes on abortion. I phoned up a well-known university and asked them if I could bring a photographer down to this university, to the medical section, the medical museum, to get some pictures of the human foetus and the human embryo. I was told: "Sorry; only medical students can use this. It is not for the public." I said: "Well, look, my motives are honest and noble. I want to appear before the Health and Welfare Committee and I would like to present them with pictures of foetuses in jars of alcohol so that we can see exactly what we are talking about and see how human they look and so on." "Well, I am sorry but we cannot do that." It seems that somehow our schools are trying to encourage education and information but in this case, I was a wee bit upset, so all I could do was to get some sketches of the embryo. When it is 5½ weeks old it is about half an inch long; when it is 7½ weeks old—this is another embryo I saw—which I presume, it is just about the time it becomes a foetus, it is about an inch long; and at 11 weeks of age it is about 2 inches long. At about three months, the age at which abortion is permissible in many, many countries, it becomes rather substantial. It is starting to become of a real human size and shape which can be perceived.

Perhaps I am going on a little too long here, Mr. Chairman. That is all I have to say.

Thank you very, very much, sir, for the privilege of speaking before this Committee.

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, perhaps, in all fairness, we should hear the other witness before we start any questioning.

**The Chairman:** Yes, I was going to do that. We will now call on Mr. Hackett from Downsview, whose brief you have also had for some time. Mr. Hackett?

**Mr. John Hackett (Downsview, Ontario):** Mr. Chairman, Ladies and Gentlemen, I would like to pay tribute first to my wife for her help in producing my brief and also bring to notice that behind every man opposed to abortion is a woman.

The smokescreen of religious philosophy has been raised during these proceedings. It could be made to seem as though this were the only basis on which abortion might be debated. The red herring of what Thomas Aquinas, Jerome and Augustine thought about infusion of the soul is quoted. If my objections to legalized abortion were purely religious I would not be here! I do not speak against abortion because of a religious conviction but because of a sense of justice and humanity—fair play if you like!

The theory that abortion can be consigned to the field of theology would imply that all persons without religious faith accept abortion *per se*; this is not so! All human life in every stage must be protected by law and not by the religious belief of the mother. The law forbidding infanticide is never regarded as a perpetuation of religious reasoning nor must abortion be so!

There are people who smile slightly at the horror of anyone who objects to abortion as being a ruthless destruction of an unborn child. Acceptance of abortion is regarded as the supreme act of sophistication. It is debated from the viewpoint of whether a woman can have a certain surgical procedure or not. I look at it as a question of whether we can concentrate our 20th century technology against the most helpless form of human life or the question of sharing our knowledge with him. Society versus the unborn child is a one-sided battle! He must be regarded as a member of our society, not a subhuman attempting to join it. Live and let live.

There is a moral content to every law we have; yet we do not regard all our laws as being based on religious attitudes. The word morality must be separated from its religious connotations. You are no doubt aware of the phrase "political morality"? Do you have to be a church member to have this morality?

One case history comes to mind that will qualify for abortion under the British Bill. The mother had two children and was expecting her third. The father suffered 25 per cent disability from war wounds; the mother scrubbed floors in larger homes to help out. They lived in a disused army hut;

the child was born in that hut. If the British Bill had existed then I would possibly not have been born. I was guaranteed my life by law and I would not want that guarantee removed from any future child, no matter how poor the home conditions of his birth. Further to the British Bill I would point out that subsection (4) allows one doctor alone to decide on an abortion and he may perform it in his office if he so wishes. This is a very wide liberalization indeed.

Every person in this room today was guaranteed his or her life by a law that most of you want to change. I suggest that each member of this Committee was 100 per cent opposed to abortion before they were born. I say this to refute the logic of "the right not to be born"; you were all refused that right also! Must the phrase "lucky to be alive" be changed to "lucky to be born"?

The theory of increasing value of the foetus makes it sound like a bank account or a Government bond. Is a three month foetus of less value than a five month foetus when neither is viable? I would like to quote from the book "The First Nine Months of Life":

The heart is usually beating by the 25th day. After a few days of practice it pumps 65 times a minute. It has its own blood separate from the mother. At seven weeks it has the familiar features and all the internal organs of the future adult. It has a human face with eyes, ears, nose, lips, tongue and even milk-teeth buds in the gums. The hands have fingers and thumbs. The legs have knees, ankles and toes. The new body not only exists, it also works. The brain, in configuration already like the adult brain, sends out impulses that co-ordinate the functioning of the other organs. The heart beats sturdily. The stomach produces some digestive juices. The liver manufactures blood cells and the kidneys extract some uric acid from the blood. The muscles of the arms and body can be set in motion. Until adulthood, when full growth is reached between the years of 25 and 27, the changes in the body will be mainly in dimension and in the gradual refinement of the working parts. In the seventh and eighth weeks fingers, thumbs and fingerprints form. The appearance of the first bone cells marks the end of the embryonic period (days 46-48). This criterion has been

chosen by embryologists because the beginning bone formation coincides with the essential completion of the body. Now perfection of function will follow perfection in structure. As the embryo (Greek—to swell) becomes a foetus (Latin—young one) near the close of the second month it can well be called a baby. He or she is now a little person.

To question the humanity of the foetus on the basis of its size at certain stages of its growth is the same as comparing the viable foetus to an adult human. Is the foetus of a Pygmy woman less human than the foetus of a 200-pound woman?

To grant abortion because a child may be deformed requires that we develop an attitude toward deformity. That attitude must be one of disgust, hatred, contempt or complete indifference. This is not kill or cure but kill to cure! How can an act of mercy towards the unborn child be translated into the sentence of death? He is rejected sight unseen, the quality of mercy is never to be strained for him. His contribution to society may never be great but to reject him for this reason is to accept the philosophy of communism, those who do not produce are of no value. We are never certain of his deformity, some odds are quoted about a possibility. It is an axiom of our system of justice that it is better to let ten guilty men go free than that one innocent man should hang. Abortion is a complete contradiction of this rule, it states that it is better to kill four innocent babies than to let one suspect escape with his life. This is the exact theory on which King Herod ordered his slaughter of the innocents.

Society must support life, not suppress it. There is no better way to spend taxes than that of supporting the deformed child, the retarded child. Parents alone cannot carry this burden; faced with the totality of their problem they seek abortion. Canada has the opportunity to show the abortion nations that she can provide leadership in the fields of humanity, human rights and mercy by rejecting every bill proposed in the House of Commons which advocates abortion. Let this government issue a national writ of habeas corpus for all unborn children to guarantee their right to be born. Must anything less than delirious delight on the part of the parents be grounds for an abortion? I would even question the right of any constitutionally elected government to kill off certain future citizens.

If you claim you cannot legislate morality then do not legislate against it. The unborn child is our fellow-man, not disposable tissue; we are morally obligated to protect his life.

I suggest the present government is going at this problem in reverse. It is dragging its feet on birth-control and rushing pell-mell into abortion. Due consideration should also be paid to legalizing voluntary sterilization. Let the abortion issue be raised again in five years time; I believe the problem will have eliminated itself.

• (12:30 p.m.)

I also feel compelled to introduce some pertinent information into the evidence. It is being boldly stated that 800 women die each year in Canada from illegal abortions (appendix D, page 91)—this is not true. I have obtained the figures from the department of Vital Statistics. They read as follows:—

1960—	13 deaths
1961—	18 deaths
1962—	16 deaths
1963—	14 deaths
1964—	9 deaths
1965—	9 deaths
1966—	9 deaths

There is evidence of a decrease as each year goes by.

**Mr. Enns:** Will the witness identify the source of his information and what category of death he is quoting?

**Mr. Hackett:** Deaths from illegal abortion.

**Mr. Enns:** Deaths from illegal abortion? I did not know that DBS could gather that information.

**Mr. Knowles:** Was this from a provincial office?

**Mr. Hackett:** This is federal.

**Mr. Enns:** I was not aware that they could obtain that information. Few of us have been able to get exact figures on illegal abortions.

**Mr. Hackett:** Not abortions, but deaths caused by illegal abortion. They count the dead bodies.

Project the known number of deaths with the known death-rate and allow for the higher death-rate of the illegal abortionist and we also eliminate the second falsehood of 300,000 or even 100,000 illegal abortions. I will quote Denmark because they

have what they call the happy—I would say the unhappy—average of .7 per thousand. This means seven deaths in every 10,000 abortions performed in a hospital by qualified medical men. The illegal abortionist would have about six times that death-rate, or 4.2 per thousand. If we had nine deaths this would work out to 2,000 illegal abortions in Canada. If you had 300,000 illegal abortions, using the death-rate of the illegal abortionist you would get 1,200 deaths per year, not nine.

Possibly the CBC could make note of this and refrain from such brainwashing as we were subjected to in Toronto on November 17 at 2:30 p.m. over radio station CBL when it was stated that between 200 and 500 women die each year in Canada from illegal abortion.

I have never observed before in my life so much time, money and intellectual effort being concentrated in such a one-sided battle against the unborn child. Newspapers, radio and TV networks have attempted to brainwash the Canadian public with a completely onesided picture of the problem of abortion, using guessed-at statistics, quoting any guess at all as truth. Two promoters of abortion were imported to flaunt their beliefs over the CBC network, one from England and one from the United States. Abortion has been presented as the epitome of complete freedom for woman-kind, editorials have been written calling down the blessings of heaven on those wonderful people who clamour for the right to change our laws protecting the unborn child; it is advocated as the one essential missing from the perfect life we now enjoy! Is the true picture of journalistic endeavour the campaign to help the poor child the crippled child at Christmas time, or is it the other campaign to legalize his destruction which is waged the rest of the year? Is killing unborn children the final step required for entry into the space age, ignoring the fact that to do so is a step back to the Dark Ages when human life was taken away for stealing a sheep? Legalized abortion is an admission of defeat and an acceptance of our inability to provide for and protect the most helpless immigrant we receive, the unborn child.

I reject their arguments and ask you to do the same.

**Mr. Knowles:** Mr. Chairman, I would like to raise a point of order in, of all things,

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defence of the government. I do not do this very often. I heard Mr. Hackett say that this government was dragging its feet on birth control and rushing headlong on abortion. I wonder if Mr. Hackett is aware of the fact that there is a government bill before Parliament which implement our recommendations of last year regarding birth control, and that there is every prospect that it will become law at this session? So far as abortion is concerned, however, all we have is the subject matter referred to the Committee. We have no commitment from the government that there is going to be any action on it at this session.

**Mr. Hackett:** According to the press, Mr. Trudeau also has a bill of his own which he is attempting to push through in this omnibus bill. I say this is rushing abortion when you still have your recommendations from last spring.

**Mr. Knowles:** On a point of order, do you know what is in Mr. Trudeau's bill?

**Mr. Hackett:** Nobody knows the content, no.

**Mr. Knowles:** But you assert what is in Mr. Trudeau's bill.

**Mr. Hackett:** Only what has been reported in the press.

**Mr. Knowles:** I have not asked Mr. Trudeau, but I will make the assertion that it is not in Mr. Trudeau's omnibus bill. It could not be. The subject matter has been referred to us. Now, as I say, I am not at the moment arguing the case for on against—and I am speaking as an opposition member—but I think it was a little unfair to say that the present government is dragging its feet on birth control and rushing headlong on abortion. Almost the opposite is the case. Well, not the opposite, but the fact is that it is proceeding on birth control and is not proceeding at all on abortion.

**Mr. Hackett:** Based on the same time element you would say the abortion bill is not due in Parliament until December 1968?

**Mr. Knowles:** Perhaps.

**Mr. Hackett:** Based on the same time element, this is true.

**Mr. Knowles:** So as far as birth control is concerned the Committee at least made a

report and the government acted on it. This Committee has not yet reported on abortion.

**Mr. Hackett:** If you read the press, and I assume you do, the *Telegram* has quoted Mr. Trudeau as saying that his bill is there and is going through in this session of Parliament before December 21.

**Mr. Knowles:** First of all, it will not be through before the 21st of December; and, secondly...

**Mr. Hackett:** I am glad to hear that.

**Mr. Knowles:** ... we have not seen the bill; and thirdly, I will give you any wager you want that Mr. Trudeau's bill does not...

**Mr. Cowan:** That is illegal!

**Mr. Knowles:** The Prime Minister wagered ten on the football game on the floor of the House the other day.

All right, Ralph, I will accept your stricture. I will not make a wager. I will merely make the assertion that there is not a chance in the world of that being in Mr. Trudeau's bill. I suggest that you should read what you see in the press with a grain of salt.

**An hon. Member:** Two grains of salt.

**Mr. Hackett:** Thank you.

**Mr. Knowles:** They garble things, but not when we want them to.

**The Chairman:** That is right. The day you ask them to garble something, they do not. We notice that very often.

**Mr. Knowles:** Mr. Chairman, I have just one other point. Is it clear that these men's briefs will be printed in the...

**The Chairman:** It has not yet been made clear. I am sorry. Have you finished, Mr. Hackett?

**Mr. Hackett:** Oh, yes.

**The Chairman:** Mr. Hackett, all that the Committee can go on is what is actually before the House. What Mr. Knowles has said is true.

Last year we sat on birth control and the government has introduced a bill now. The government has not introduced any bill, nor is there anything before the House, concerning abortion. The House of Commons has only referred the subject matters of the three bills to this Committee.

**Mr. Knowles:** The subject matters only.

**Mrs. MacInnis (Vancouver-Kingsway):** These are just private members' bills.

**The Chairman:** These are private members' bills. I do not see how the government could bring forward a bill when the matter is before this Committee.

**Mr. Forrestall:** As a matter of fact, Mr. Chairman, what Mr. Trudeau indicated was that he hoped that a bill based on the findings of this Committee could be included in his omnibus bill.

**The Chairman:** When the press comments on the introduction of various bills that might be introduced it is purely speculation. They have no idea of what...

**Mr. Cowan:** Mr. Chairman, I hesitate to comment on House rules in the presence of an old-timer like Mr. Knowles, but the comment that the government would hesitate to bring in a bill when a matter is before a committee does not, in my experience, hold water. I have been a member of the Broadcasting Committee for some years, and a year or so ago, when we had the estimates of the CBC before us in the morning, Mr. McIlraith introduced a motion in the House of Commons in the afternoon that the estimates be withdrawn from the Broadcasting Committee and be considered on the floor of the House; and they were passed at five o'clock that same afternoon; so do not say that the government cannot do it. I am giving you an example where the government has done it.

**Mr. Knowles:** Mr. Chairman, having estimates before a Committee or before the House is totally different from a bill. When Mr. Cowan is here somebody has to come to the defence of the Liberal government.

**The Chairman:** First of all, is it agreed that Mr. Hackett's and Mr. Holmes' briefs, together with the sheet which gives quotations from the book, *The First Nine Months of Life*, become part of today's record?

**Mrs. MacInnis (Vancouver-Kingsway):** Agreed.

**The Chairman:** One other ladies' group, the Canadian Committee on the Status of Women has sent in a brief which I think should also become part of today's record. They do not want to appear. It is a short brief. Is that agreed?

• (12:40 p.m.)

**Some hon. Members:** Agreed.

**Mr. Cowan:** Is that the commission, or a committee?

**The Chairman:** No, it is not. It is called the Canadian Committee on the Status of Women. The other body is called the Royal Commission on the Status of Women.

If I may be so bold as to look at Mr. Hackett's correspondence here, the letter he referred to is one from the Dominion Bureau of Statistics which quotes maternal deaths in Canada for the years 1960-1966. It lists maternal deaths, and goes on to subdivide them into abortions and then further subdivides them into those as induced for other than medical reasons.

I think it would be worthwhile for the Committee to have this but, in addition, to complete our information, let us have also the statistics of those induced for medical reasons, if there are any. The totals are certainly different. There were 13 induced for other than medical reasons but the total number who died from abortion that year was 24. This means there were 11 from some other cause.

**Mr. Forrestall:** There were 800.

**The Chairman:** I beg your pardon?

**Mr. Forrestall:** Part 5, from the 200 to 500, or the other figure of 800.

**The Chairman:** So rather than make Mr. Hackett's letter a part of today's record I suggest that I take this as a basis and get the full statistics from the Dominion Bureau of Statistics.

**Mr. Knowles:** Let us find out whether DBS is satisfied that it gets all the statistics on deaths from abortion.

**The Chairman:** They get the ones that are reported.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, the ones that are reported, but what about the others?

**Mr. Knowles:** Let us get some statistics on the ones that are not reported.

**The Chairman:** The Steering Committee already has asked the Chairman to get figures on illegal abortions from Toronto,

Montreal and Vancouver, and this will give some idea.

The meeting is open for questioning. Dr. Brand, you are first.

**Mr. Brand:** I have very few questions after listening to the evangelical brief presented by Mr. Homes. I was a bit speechless at the end of it. I am just a little curious and perhaps you could explain to me this bit on page 4 about curettage before implantation of the fertilized ova. I believe you make the statement here that curettage prior to the fifth day would be quite legal and would of course not be aborting the uterus. You seem to be quoting somebody on this.

**Mr. Holmes:** Dr. Hellegers, a professor, I believe, of gynaecology and obstetrics at John Hopkins University. Maybe you can tell me if that is a medical university only. Certainly its medical branch is renowned around the world. I quoted him because I had run across two or three references to this university and the research they had done on this question. It is his opinion that if a woman, for instance, becomes raped, she has five days in which to report this offence and a doctor can curette the uterus or clean out the placenta lining and there is no possibility of pregnancy occurring in that case. So if women are viciously assaulted and they report this to a doctor within five days, they are not pregnant and then there is no question of an abortion in that particular instance of rape.

**Mr. Brand:** It is a study I was not familiar with, Mr. Holmes, and one that poses an interesting question. Some of the evidence we have had before this Committee, certainly on birth control, would not tend to support that feeling at all. And it is only one university of many.

**Mr. Holmes:** I suppose if we did enough digging we could dig up opinions from a number of different sources either for or against the opinion put up by Dr. Hellegers. I suspect that he is a responsible man.

**Mr. Brand:** On Page 31 you say the number of illegal abortions in Japan rose to one million per annum. Where did you get those statistics from?

**Mr. Holmes:** There are several sources, one being the Royal College of Gynaecologists and Obstetricians of Great Britain who opposed the private bill that is now law in

Great Britain. They have quoted that in their opinion there are as many as a million. I do not know where they got their evidence, but this is the evidence I am using. Also in a book called *Abortion*, written by Lawrence Lader, a pro-abortionist—there is no question of that—in which he says there are a million legal abortions a year in rough figures. Now whether that refers to 1964, 1966 or 1962, I do not know, but we will say that it varies between 800,000 and 1,200,000. He also says there is a very high degree of illegal abortions although he does not give the figures. So even though he is a pro-abortionist he is aware of the fact that there are many, many illegal abortions in that country.

It also frightens me that if we have a half-way law instead of a complete one, either abortion on request or the way it is in the present code, we may have a situation where all sorts of women will not qualify, as is the case in Sweden, and they will therefore seek to procure an illegal abortion. I hope that Parliament does pass an act that permits termination pregnancy boards, hospital therapeutic boards and this kind of thing so that we do not wind up in a situation of criminally induced abortions rising rather than going down, which obviously would be the intent of the law. There is a distinct possibility of that. There is a great deal of evidence that it has occurred in Sweden, in Denmark and in Japan.

**Mr. Brand:** I am afraid you confused me a little bit. Japan is pretty permissive in the obtaining of abortions nowadays.

**Mr. Holmes:** Yes.

**Mr. Brand:** They can pretty well get one on demand. I would be interested, Mr. Chairman, if it was possible, in obtaining any statistics similar to this, showing that the number of illegal abortions also rose.

**The Chairman:** Yes.

**Mr. Brand:** I do not therefore follow your argument that you made just a moment ago.

**Mr. Hackett:** You may not like the answer, Doctor, but the reason is evasion of income tax on the part of the doctors and the mortuary fees involved on the part of the parent; this creates an area of collusion between the two and they do not report the abortion. This is verified by Tietze, a statistical expert in the United States. He has written a book on human fertility and population problems and

he was quoted in this report from England by the Council of the Royal College of Obstetricians and Gynaecologists as saying that the experience in Japan is illustrative of this situation. He goes into all the figures—and there are one million illegal abortions in Japan each year.

**Mr. Enns:** What is an illegal abortion in Japan? Is it just a matter of evading an income tax law?

**Mr. Hackett:** Yes.

**Mr. Holmes:** An abortion that is not reported.

**Mr. Enns:** But it still is legal within their abortion laws?

**Mr. Holmes:** Oh yes. There it is on request, in effect.

**Mr. Enns:** So it is not really an illegal abortion in the sense of...

**Mr. Hackett:** Well they could be prosecuted possibly.

**Mr. Holmes:** Well they could be prosecuted, fined, thrown in jail and so on. They are doing something that is totally wrong according to law and presumably they should amend it so that doctors do not pay income tax.

**Mr. Enns:** It is like selling a transistor radio illegally.

**Mr. Holmes:** Well, it is illegal.

**Mr. Enns:** Yes.

**The Chairman:** You are saying that the abortions are carried out by legally qualified medical practitioners?

**Mr. Holmes:** Yes.

**Mr. Hackett:** We assume that.

**Mr. Brand:** I am afraid you escape me with some of your logic.

**Mr. Hackett:** It is not our logic, Doctor; this is from the Council of the Royal College of Obstetricians and Gynaecologists.

**Mr. Brand:** In Great Britain?

**Mr. Hackett:** Yes.

**Mr. Brand:** We are talking about Japan?

**Mr. Hackett:** Yes.

**Mr. Brand:** Do you have any figures from Japan?

**Mr. Hackett:** They have consulted figures all over the world. They were quite concerned about this. In fact they still oppose it. They still oppose the abortion bill in England and this is why they investigated the whole thing quite thoroughly. They are not at all in favour of abortions.

**Mr. Brand:** Are you suggesting that the doctors in Canada would evade income tax in the same way?

**Mr. Holmes:** No, very definitely not.

**Mr. Hackett:** I do not know.

**Mr. Brand:** I would like an answer because it is quite a charge and one which I am not going to accept lying down. I might as well be honest.

**Mr. Holmes:** Is this not the case though that the gynaecologists in Great Britain have said that there are a million illegal abortions in that country? Is that not a valid figure? Now there are other statistics for Denmark, Sweden and so on where the illegal rate has gone way up since the so-called liberalization of the abortion laws in those countries. Also I believe abortions have gone up in Japan from a very small figure—I think there are statistics on this too—prior to 1946, when they introduced their abortion legislation, to a very high figure of around two million or so.

**Mr. Brand:** Since you are accepting the figures as presented by Tietze or whatever his name is, and the college, what did they have to say about Canada? Surely if they are able to give definitive figures on illegal abortion rates in other countries they should be able to do the same for Canada. Now what are their figures for Canada?

• (12:50 p.m.)

**Mr. Hackett:** They have not given any.

**Mr. Brand:** Now is not that interesting?

**Mr. Hackett:** They were concerned with past experiences in countries where it has been legalized, not with countries such as Canada, which is playing with the problem.

**Mr. Brand:** If you are going to make a valid study would you not agree that you should have the before and after figures in order to make comparisons?

**Mr. Holmes:** We have before and after figures as well.

**Mr. Hackett:** These were obtained from a sociologist who spent some years in Japan. Would you like to hear them all? They are quite lengthy. Should I pass them to you?

**Mr. Brand:** I would much prefer to hear them for Canada.

**Mr. Hackett:** I have none for Canada; nobody has. We have some guesses. You have accepted those without challenge, Doctor. Why is this? You have accepted 300,000; you never questioned that evidence. Why is that?

**Mr. Brand:** No, that is not correct. I would not accept that. You are listening to television, not to the Committee hearings.

**Mr. Hackett:** I am reading this evidence right here. Do you want to know the page it was printed on?

**Mr. Brand:** Yes, I would like to hear the page where it was not challenged.

**Mr. Hackett:** Very well.

**Mr. Brand:** Would you agree to this: presumably, if you can come to some figures for the legal abortions in other countries, you should be able to do the same in Canada.

**Mr. Hackett:** I have done that.

**Mr. Brand:** Yes, you have given your opinion of what it might be, that is correct. But are there any other studies you are aware of that would tell us this, any definitive studies or presumably accurate ones?

**Mr. Hackett:** No, I have not.

**Mr. Holmes:** Is this not a problem we all face, no matter what position we take on this question, Doctor?

**Mr. Brand:** Apparently not, in this gynecologist's view.

**Mr. Holmes:** No, I am talking about Canada now. Is not this problem the fact that we are in a sort of bind or in a situation where we cannot determine the actual truth of the situation? There is no question of that.

**Mr. Brand:** This is true.

**Mr. Holmes:** In the United States it is the same thing because many of their laws are very similar to ours.

**Mr. Brand:** I do not think I am making myself clear. What worries me, of course, is because we are having this difficulty here, why did they not have this difficulty in these other countries? That is the only point I am questioning.

**Mr. Hackett:** They are having them now.

**Mr. Brand:** They are having a problem deciding the number of illegal abortions that were carried out before the change in the law.

**Mr. Holmes:** Maybe they have better information gathering techniques.

**Mr. Hackett:** Illegal abortions are never recorded. That is the problem.

**Mr. Brand:** And yet we are giving figures for legal abortions in these other countries. This is what I cannot quite understand. Surely you see my point.

**Mr. Hackett:** Well the point I would like to make, Doctor, is that in the evidence you did not challenge them at the time. This is on page 91 of the evidence.

**Mr. Forrestall:** I do not know anything about these figures and whether it is in the evidence or not I do not know and I will continue to challenge them.

**Mr. Hackett:** Eight hundred in Canada; right in the evidence; Appendix "D", by the Humanist Fellowship. You accepted that figure.

**Mr. Brand:** We do not accept everything that is presented. I want you to understand that we do not accept everything. We do not accept your brief, either, completely.

**Mr. Knowles:** Mr. Chairman, I would like to make it very clear that I do not accept everything that is in the two briefs that have been presented. I did not challenge everything but if necessary I will.

**Mr. Holmes:** I am glad you did not.

**Mr. Brand:** If you want me to challenge some of your figures I will, but I did not think there was any point in doing it. Some of the figures are obviously quite inaccurate.

**The Chairman:** I think this is obvious. Just because there is no evidence to say that no one challenged such a fact, it does not mean this Committee has accepted it as a fact.

**Mr. Brand:** I have one last question. I just wondered...

**Mr. Cowan:** I did not see any parts that I would challenge.

**Mr. Brand:** ... whether, since they read the evidence, they have read Dr. Fraser's evidence. Is it available yet? Did they have the opportunity?

**The Chairman:** No, I do not think so.

**Mr. Brand:** Are you familiar with it at all?

**The Chairman:** It is taking a little time to reproduce.

**Mr. Brand:** I was wondering whether they had considered at all some of the evidence given by the geneticist from McGill University, Dr. Fraser, about severe hereditary disease and where, with some of these eminently predictable conditions, the child will die very soon after birth or otherwise, and whether or not they feel a therapeutic abortion would be permissible in any of these cases.

**Mr. Hackett:** No, because this calls for a concentration of our law against the life of that child. If it is going to die, let it die; if it is not going to die, let it live. Why concentrate your knowledge against that child?

**Mr. Brand:** Do you, sir, believe that there are any indications at all for therapeutic abortion?

**Mr. Hackett:** To save the life of the mother, yes. That is all.

**Mr. Brand:** Just to save the life, no other reasons at all. How about you, sir?

**Mr. Holmes:** I am very much in the same category. I think possibly Mr. Hackett and I only differ slightly in degree. I do not think that a woman, as stated in the brief, has to be in the jaws of death prior to having an abortion. I think if there is a very strong indication that a woman who has been raped is going to be so mentally upset that she will never regain her balance or momentum, or if she has been in a clinic for, let us say, two weeks, and we have established almost as a fact so far as we as human beings and men of medicine are able that it is going to leave an indelible scar on her and change her whole life so she has no possibility of living what we consider a normal life, then I recommend an abortion.

**Mr. Brand:** Mr. Hackett, would you like to see the laws changed at all from what they are at present?

**Mr. Hackett:** No, I would like to see them strengthened.

**Mr. Brand:** Do you realize there is a conflict in the Criminal Code as it is presently constituted.

**Mr. Hackett:** I do not see any conflict, Doctor, because I have never yet...

**Mr. Brand:** Let me put it to you this way: the legal evidence we have had before the Committee would seem to indicate there was a conflict.

**Mr. Hackett:** A danger of a doctor being prosecuted for performing an abortion. It does not happen. They never get prosecuted.

**Mr. Brand:** I am talking about the Code, sir. I am not talking about the common law and how it is administered. I am talking about the Code, and if you believe that there is a conflict between sections 209 and 237?

**Mr. Holmes:** Doctor, could we clarify the intent of the law?

**Mr. Brand:** That is what I am asking. Would you like to see this law at least clarified? Or would you rather...

**Mr. Hackett:** Section 2 says:

This section does not apply to a person who, by means that, in good faith he considers necessary to preserve the life of the mother of a child that has not become a human being, causes the death of the child.

**Mr. Brand:** I do not want to get into a legal argument because we have already had evidence about this. There certainly seems to be some difficulty in interpretation of these two sections of the Act and this is the point. Would you like to see that clarified?

**Mr. Hackett:** Clarified in such a way that it is widened or...

**Mr. Brand:** I just said "clarified".

**Mr. Hackett:** It depends what you mean by "clarified", Doctor.

**Mr. Holmes:** Any law should spell out clearly and specifically exactly what its intent is should it not? This, we hope, is what our law is going to be.

**Mr. Brand:** Well, how would you like to see the law read? Just that one section.

**Mr. Holmes:** I do not have any phraseology for it so I cannot make any comment.

**Mr. Hackett:** The doctor is in the clear, I would say, in section 2. It does not apply to a person who "by means" and "in good faith". I think it is the doctors you are concerned about, Doctor.

**Mr. Brand:** Well, who would do a therapeutic abortion, sir?

**Mr. Hackett:** Doctors.

**Mr. Brand:** Then surely the law is going to protect them; do you not agree?

**Mr. Hackett:** Yes.

**Mr. Brand:** That is all I want to know.

**Mr. Hackett:** Your concern is in protecting the doctor, not the child. Is this your argument?

**Mr. Brand:** I am not getting into an argument about this. I am talking about the fact that the law is...

**Mr. Knowles:** No one is concerned about the woman in all of this.

**Mr. Brand:** It is just that the law apparently is not very clear and I am not a lawyer and I assume you are not either. I am not attempting to argue in a legalistic fashion about it.

**Mr. Hackett:** No.

**Mr. Brand:** We have had evidence that one seems to argue against the other. It was just a matter of whether you agreed it would be wise for this Committee to clarify the law to make at least one point clear about this, so that there is no conflict in the law regardless of how we decide.

**Mr. Hackett:** Yes.

**Mr. Holmes:** I go for that.

**Mr. Brand:** Thank you.

**The Chairman:** Mr. Forrestall?

**Mr. Allmand:** May I ask a supplementary question to what the doctor was just asking? Sir, you said you would not want the law changed. You know that under the present law on abortion the penalty is much less

than it is for murder or for manslaughter; and yet in your argument you put forward abortion as being comparable to murder and manslaughter. Are you therefore satisfied that there should be a lesser penalty for abortion than there is for manslaughter?

**Mr. Hackett:** The penalty for abortion is life, although they do give suspended sentences in Toronto; but the penalty is life. You did not know that?

**Mr. Cowan:** Would it be the same penalty if this abolition of capital punishment Bill goes through?

**Mr. Hackett:** It is never imposed.

**Mr. Allmand:** I was thinking of infanticide; I am sorry, infanticide is only two years.

**Mr. Hackett:** Two years, yes. This usually only refers to the mother anyway.

**Mrs. MacInnis (Vancouver-Kingsway):** On that point, may I ask whether would you like to see the penalty remain at life for abortion?

**Mr. Hackett:** Yes.

**Mr. Forrestall:** Well, I...

**Mr. Knowles:** May I be excused because I have another committee meeting and so have you.

**Mr. Forrestall:** Yes, you are right.

**The Chairman:** No lunch for you gentlemen today?

**Mr. Knowles:** We are having lunch at the Committee from 1 to 2:30.

**Mr. Forrestall:** If that is the Restaurant Committee speak harshly with them.

**Mr. Knowles:** It is the Committee on Procedure.

**The Chairman:** The Restaurant Committee have their lunch bought for them.

**Mr. Forrestall:** Mr. Chairman, I have no questions, really, of the two witnesses. We have sat here for the last month or so, and again this is perhaps repetitious of what I have said before but I cannot in my own mind conceive of our continuing much longer at the same rate and with the same degree of intelligence that is appearing before us week in and week out. In every one of the briefs

that has been presented to us, apart from the generality or commonality of conclusion, there has been an absolute, total, continuing and consistent conflict of evidence on which conclusions have been based.

• (1:00 p.m.)

I am beginning to feel that until such time as the Committee has available to it some acceptable statistics—in that sense I mean statistics accepted by other groups in other studies and if necessary outside of this country; we have some appreciation of our own experience here in Canada the first of which we have received this morning; I know the work that you are endeavouring to have done for us—but until we have in front of us a credible appreciation of the experience in countries which are more permissive and where abortion legislation has been in existence longer than in ours and until we understand and are fully aware of their experience I, as one member of this Committee, think that we should simply adjourn and that the continuation of the hearing of briefs at this particular time is wrong. It is misleading to those of us who are attempting to follow it, both from the press and through the written words that have been submitted to us. Surely within six months some enterprising group within government, or ourselves in camera, could compile the type of information and statistical knowledge that I feel is absolutely necessary before we can arrive at any conclusions. I suspect that if we get one or two more briefs that have no common basis in research, or no greater degree of mutuality on the basis of the research that was done to produce it, then I am going to formally introduce a motion, or whatever is necessary, in Committee to have the Steering Committee give serious consideration to such a course of action. I have no questions, I just have that one observation to make.

**The Chairman:** I am sure you realize the difficulty involved in the production of statistics on illegal abortions where it is not reportable.

**Mr. Forrestall:** I am perfectly aware of that but the point has already been raised, not only today, Mr. Chairman, but in the past by both members of the Committee and by individuals representing associations and we have had a glimpse of the fact that statistics are available. It is this conflict to which I object.

**The Chairman:** But the old saying is that you can make statistics do anything you wish.

**Mr. Forrestall:** That is the point, let us get our own statistics.

**Mr. Enns:** I do not think we are really going to make this decision on the basis of mere statistics.

**The Chairman:** I am not sure how much significance the statistics of other countries have when they are applied to Canada and when we really have not decided that all the conditions are necessarily the same.

**Mr. Enns:** It is a question of what we think is going to be right, is it not? I do not know if statistics support that or not.

**Mr. Forrestall:** My point, of course, is that there is conflict. I could listen to evidence of the type that I have heard for the next two years but until something is put before me that I can accept as being credible, this constant conflict in the evidence that is presented before us simply does nothing to make up my mind.

**Mr. Enns:** Will any amount of statistics prove to you that life begins at a certain point? Do you need statistics for that?

**Mr. Forrestall:** I am trying to leave my religion out of my conclusions.

**The Chairman:** But surely this is the problem. It is such a controversial area that no two experts will agree on any aspect of it.

**Mr. Forrestall:** My point is that perhaps this is the acceptable position, as horrible as it is.

**Mrs. MacInnis (Vancouver-Kingsway):** May I also point out that the recent briefs have been pretty largely from individuals. Some briefs are going to come from organizations and it is to be hoped that more research will have been done in them. I do not think we should cut off at this point because a lot of the large organizations are still to be heard from.

**Mr. Forrestall:** I did not mean to go quite that far. I think we should certainly hear briefs that are already prepared or are in the throes of preparation because they are all very helpful and useful. I am not implying that, I am merely saying before I arrive at any conclusion on this question—because I

oppose it—that I am prepared to keep my mind open if there is some way in which the rights and the dignity of individuals can be protected. This is what I am looking for and I have found no glimpse of it in anything that has come before us so far.

**The Chairman:** Perhaps the time to say that you do not agree with the material that is being presented to us is when we come to the close of our hearings. We will try to get these facts and figures but I am not sure that they will answer your questions.

**Mr. Forrestall:** Perhaps the existing statistics could be brought together and made available to us. For example, Dr. Brand has dug out some work from Mr. Shaw that shows alarming. . .

**The Chairman:** But we have not seen this work.

**Mr. Forrestall:** No, and this is my point.

**The Chairman:** Exactly.

**Mr. Forrestall:** This is my point.

**The Chairman:** Reference has been made to it but the figures have not been made available to the Committee.

**Mr. Enns:** There are a number of points on which I would have liked to have taken issue with the witnesses before, Mr. Chairman, but time is moving on. Perhaps the best thing I can do is simply pose this question to each witness. Do you feel that your moral—or whatever way you want to describe it—position would be materially affected by a liberalization of the abortion laws? Would the decision on whether or not your wife should have an abortion be affected in any way by a liberalization of the abortion laws?

**Mr. Holmes:** I do not quite follow the question.

**Mr. Enns:** You seem to have put the view that we all must agree with the position you take so that you will not be jeopardized in your attitude towards this point. I am suggesting to you—perhaps I did it very poorly in the way I phrased the question—that you can continue to hold to your belief and your conviction that under no circumstances must there ever be an abortion to yourself, those whom you love or, as far as you can control, your own society, but it is probable there are others who may not hold to your point of view. The opinion of others would not in any

way affect your position but you seem to want to influence the opinion of others.

**Mr. Holmes:** I influence others in many, many social issues. Some people believe that some races are subhuman or they are a lower species than the Anglo-Saxon race. Even though they are entitled to their opinion, when they start to try to impose themselves upon society, to push down those people they think are of some subhuman species...

**Mr. Enns:** Is this being done in any legislative procedure?

**Mr. Holmes:** Yes, very much so. In all our laws every man is considered equal and I think we consider the unborn child equal, and as such we should definitely attempt to protect his life the same as we do the life of any other person.

**Mr. Enns:** All right. Suppose under given circumstances I were to take the position that I would agree to my wife having an abortion. You would not deny me that right...

**Mr. Holmes:** Yes, I would deny you that right.

**Mr. Enns:** ...and yet I would say it is fine for you to have it. I do not quarrel with your not having it or holding whatever view you wish, but you deny me the right...

**Mr. Hackett:** Could I draw a parallel situation to our speed laws? I feel it is all right to travel at 60 miles an hour along Elgin Street but the law says I can only go 30, and you want to go along with the law. Do I have the right to go 60 miles an hour? It is exactly the same logic.

**Mr. Holmes:** Our present laws outline the situation specifically; they prohibit your wife from having an abortion.

**Mr. Enns:** At the present time it does.

**Mr. Holmes:** Yes, and we think this law should be maintained. We think it is a fair law and if any changes should be made to it they should be to clarify its intent so that doctors do not sweat when they perform an abortion.

**Mr. Enns:** I do not want to engage in argument, I want to get an opinion.

**Mr. Holmes:** This is our opinion.

**Mr. Enns:** Your whole premise seems to be based on the sanctity of human life.

**Mr. Holmes:** Not the sanctity, just the human life as such.

**Mr. Enns:** Then I am sorry I used that adjective, but you want to preserve life and there must be no tampering with it.

**Mr. Holmes:** We do not believe in destruction or murder or in any way destroying human life. I will not go into the subject of war, worry or anything like that, but this is my feeling.

**Mr. Enns:** I was just going to say that you must then be against war?

**Mr. Holmes:** Yes, I am, very much so, particularly the killing of innocent people. If two gladiators want to get in a ring and kill each other I would try to prevent it, but I am more particularly...

**Mr. Enns:** Are you mounting any campaign against having war eliminated?

**Mr. Holmes:** There are many people who are, although I have not joined such a committee. There are many anti-Viet Nam demonstrations, and so on, in the United States and Canada but I am not a member.

**Mr. Hackett:** May I point out that a lot of people who are objecting to the war in Viet Nam because little children are being burned are also clammering for abortion. Is this not also a contradiction?

**Mr. Enns:** Not to my view, however. You must see it that way.

• (1:10 p.m.)

**Mr. Hackett:** But it concerns human life.

**Mr. Holmes:** This is the key question, the matter of determining when it is human life. This is why we brought this book and quoted from a number of sources of evidence. You are talking about it being a human life. If it is a human life, let us keep the number of deliberate killings down to the very smallest figure we can. If it is an inhuman life, let us have clinics such as they have in some other countries where women can go in and ask for an abortion and have it on request. You cannot have an in between law that says you can have an abortion but Mary down the street cannot. In my belief this is utter foolishness.

**Mr. Enns:** I would like to ask my last question of Mr. Hackett. Are you aware of any religious ceremony, funeral right, or

whatever way you want to describe it, for a normal, natural miscarriage?

**Mr. Hackett:** No.

**Mr. Enns:** But is it not a loss of life?

**Mr. Hackett:** What they do is up to the particular religious group. I would say it is a loss of life, yes.

**Mr. Enns:** Yes.

**Mr. Hackett:** Yes.

**Mr. Enns:** There seems to be a difference of opinion here.

**Mr. Holmes:** This is a religious opinion. We are talking about medical opinion.

**Mr. Allmand:** On a point of order, I checked this point last week. The Catholic theology—I do not know about others—believes that if there is a miscarriage and it is at all identifiable, it should be baptized.

**The Chairman:** This is correct.

**Mr. Allmand:** Even at the early stages.

**Mrs. MacInnis (Vancouver-Kingsway):** What about a funeral service?

**Mr. Allmand:** Yes, a funeral service, too.

**Mr. Enns:** It is not really the practice, as I have heard it; but let us not go into that.

**Mr. Allmand:** I have some questions. Mr. Hackett, in the hospital in your area, do you know if any illegal abortions are being performed?

**Mr. Hackett:** From personal knowledge or from the press?

**Mr. Allmand:** From both.

**Mr. Hackett:** From the press, yes. There are four in the Humber Memorial Hospital.

**Mr. Allmand:** Would you consider it your duty, if you knew that there was an illegal abortion taking place or if one was about to take place, to report it to the authorities at once?

**Mr. Hackett:** Yes, I would. I have written letters to the press protesting the attitude of the provincial attorney in Ontario. His attitude towards abortion was that he would condone it. He has spoken out. He said this. I objected to this and the press printed it but nobody cares.

**Mr. Allmand:** How far do you think that you should go? Did you ever think of taking a writ of mandamus to have the law enforced?

**Mr. Hackett:** I beg your pardon?

**Mr. Allmand:** Did you ever consider taking a writ of mandamus, which is a prerogative writ of a court to force officials to carry out the law when they are not carrying it out?

**Mr. Hackett:** I was never aware of such a thing. However, the other doctors present watching this abortion would refuse to give evidence because doctors seem to cling together.

**Mr. Allmand:** Mr. Holmes, would you take the same attitude? If you knew illegal abortion was being carried on, would you feel it your duty to report it?

**Mr. Holmes:** I will put it this way. I will be very precise and very honest with you. If I, as a citizen of Canada, had evidence that was going to stand up in court to uphold this law, I definitely would. If I did not have the evidence and it was going to be a waste of time, I would definitely bring it to the attention of the authorities and I would not go any further because it would be pointless. In other words, if there is a good prima facie case or some sort of case which can be presented and accepted, then I think as a duty that I would. If I heard it from a rumour or something of this sort, I would not waste my time.

**Mr. Allmand:** The reason I asked you this question was that I wanted to test your integrity, in a way, on whether you really did think it was a crime and you thought the law should be enforced. Some people tell us that although they feel it should be a crime, they do not feel it is their role to try and enforce this. There seems to be a difference in attitude to other laws. When we see somebody robbing somebody else in the street or raping somebody or committing any other type of traditional crime, we feel it is our duty to report it. There seems to be a difference of opinion with respect to abortion.

**Mr. Hackett:** This is the result of the brainwashing I referred to.

**Mr. Allmand:** Thank you.

**Mrs. MacInnis (Vancouver-Kingsway):** I just want to bring out the fact that to me, in all this concern for the unborn, there seems

to be a very great lack of compassion for the women involved in all this. Do you not feel any sense of compassion for the woman who is involved in a case of rape?

**Mr. Holmes:** Very much so.

**Mr. Hackett:** Yes, very much.

**Mrs. MacInnis (Vancouver-Kingsway):** To what extent?

**Mr. Hackett:** To the fact that she can go to the hospital within five days and report it.

**Mrs. MacInnis (Vancouver-Kingsway):** I was at a meeting the other day where the head gynaecologist of the Ottawa Civic Hospital made the statement that even if a woman was rushed to the hospital at once it might very well be too late.

**Mr. Holmes:** After rape, you mean?

**Mrs. MacInnis (Vancouver-Kingsway):** Yes.

**Mr. Hackett:** Doctors will contradict each other. I wish Dr. Brand had not left. I have some letters to contradict Dr. Brand also. However, doctors contradict each other and that is the way it goes. Dr. White can be contradicted also.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes. Never mind this. But is it, in your opinion, not a permissible thing? You do not want to see the law altered to make it possible to abort a woman after rape?

**Mr. Hackett:** If it were my own wife or my own daughter I would ask her to go through with it. Let the child be born. Do not kill it.

**Mrs. MacInnis (Vancouver-Kingsway):** I am talking about the law. Which way you would like to see the law written?

**Mr. Holmes:** Mrs. MacInnis, can we...

**Mrs. MacInnis (Vancouver-Kingsway):** Just a minute. I will ask Mr. Hackett and then I will ask you. Which way do you think the law should be written? Should it be possible for a woman who had been sexually assaulted to have an abortion?

**Mr. Hackett:** No.

**Mrs. MacInnis (Vancouver-Kingsway):** How about you?

**Mr. Holmes:** Mrs. MacInnis, I think that we have to look at the actual situation and the actual person involved.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, I know, but I am talking about the law.

**Mr. Holmes:** As far as the law is concerned, to the best of my knowledge—and I am sure that this Committee could get evidence to back this up—all Canadian hospitals are permitted to curette the uterus, a D & C, to prevent pregnancy provided it is done within five days after. Now the pregnancy occurs five to seven days after conception, so that they can prevent a pregnancy.

**Mrs. MacInnis (Vancouver-Kingsway):** Would you be in favour of having the law drafted so that that was made abundantly clear?

**Mr. Holmes:** Yes, very much so.

**Mrs. MacInnis (Vancouver-Kingsway):** I mean, not necessarily with a limit of five days or whatever is put on it.

**Mr. Chairman:** I might just say that I am sure there is no such law.

**Mrs. MacInnis (Vancouver-Kingsway):** No. Would you be in favour of making such a law?

**Mr. Holmes:** Yes, I would personally. There are others that take your stand...

**Mrs. MacInnis (Vancouver-Kingsway):** Yes. I just want to get at your own thinking. I agree with you that the central point on which this Committee and other people are divided is: when is a human life a human life? All right. Do you believe that there are people in this country who honestly believe that a foetus is a potential life up to a certain point and then becomes a human being?

**Mr. Holmes:** Do I believe that there are people who believe that?

**Mrs. MacInnis (Vancouver-Kingsway):** Yes. Do you believe that there are people who honestly believe that?

**Mr. Holmes:** Yes.

**Mrs. MacInnis (Vancouver-Kingsway):** All right.

**Mr. Holmes:** They may not know any better. That is why they believe it.

**Mrs. MacInnis (Vancouver-Kingsway):** Well, that is all right. Do you believe that there could be a law which could allow people who honestly believe that to get an abortion, whereas people who do not believe that

would not have to avail themselves of it? Would that be a good kind of law?

**Mr. Holmes:** Infanticide—even if a person honestly...

**Mrs. MacInnis (Vancouver-Kingsway):** I am not talking about infanticide. I am talking about abortion.

**Mr. Holmes:** That is a law protecting human life also.

**Mrs. MacInnis (Vancouver-Kingsway):** All right. Just let me get at this. Do you believe that the law should be made so that people who believe that abortion is all right should have a chance to have it, and the others do not have to.

**Mr. Holmes:** No. I think they should be educated by their doctors because they are terribly ignorant.

**Mrs. MacInnis (Vancouver-Kingsway):** A Gallup poll in 1965 showed that 71 per cent of the Canadian people wanted liberalized abortion laws.

**Mr. Holmes:** Yes.

**Mrs. MacInnis (Vancouver-Kingsway):** Do you believe that a minority of 29 per cent has the right to enforce on the other 71 per cent the fact that there will be no liberalized abortion laws?

**Mr. Holmes:** I believe that polls, like statistics, lie.

**Mrs. MacInnis (Vancouver-Kingsway):** Well, all right. Never mind going into that, too. We all believe that. But do you believe that a minority section has the right to enforce its beliefs through legislation on the other people?

**Mr. Hackett:** I do not believe in polls.

**Mr. Holmes:** It depends on what issue it is. If it is human life, most definitely the majority of Germans perhaps were in favour of the war over there so therefore they ought to have a war, but I do not go along with that. I am one of the minority and I would uphold and try and keep this man down that wants to start these wars and these other crimes and so on.

**Mrs. MacInnis (Vancouver-Kingsway):** I think this is a little difficult to justify if you believe in a majority government and that the majority in a country rules.

**Mr. Holmes:** Well, this is fine. I think it was Abe Lincoln who once said that you can fool some of the people all of the time and all the people some of the time but that you cannot fool them all all of the time. Let us hope that the pendulum swings the other way; that the wind changes.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes. We can all agree with that. It is in the way it is interpreted that we differ.

**Mr. Holmes:** Yes, maybe.

**Mrs. MacInnis (Vancouver-Kingsway):** I think that is all I need to ask, Mr. Chairman.

**Mr. Holmes:** Mr. Chairman, could I just make a remark? I think Mr. Knowles once said very quietly: "Well, what about the woman?"

• (1:20 p.m.)

**Mrs. MacInnis (Vancouver-Kingsway):** That is what I say. Out loud, too.

**Mr. Holmes:** All right. You say it out loud. I have here just one small example. "Accent on People" by Sydney Katz, September 15, 1967. This is an article in the *Toronto Daily Star*.

#### WORDS OF COMFORT FOR MOTHER WHO WANTS ABORTION

LAST WEEK I published a desperate letter from a 23-year-old West Hill housewife.

Her dilemma, which she graphically described, was not an uncommon one. She wanted an abortion—legal or illegal—and couldn't get one.

She has three children—the youngest five months old—and now another child is on the way. Her family is miserably crowded into cramped quarters and her husband is out of town most of the time. Caring for her family has worn her down to a frazzle—both physically and mentally. She says:

"I can't go through with the coming birth. I can't endure the pain, the worry, the work, the sleeplessness or the endless crying that lies ahead."

What should she do? Her doctor won't recommend a legal abortion and she can't afford an illegal one.

Several women readers who have faced a similar crisis, have asked me to pass along their words of encouragement and offers of help.

He threw it open and said: "This is the problem" and these are the replies he got from women who have been in similar situations.

"THREE YEARS AGO, we found ourselves in a somewhat similar situation, writes Mrs. Eleanor Doney of 25 Enderby Road. My husband quit his job to go back to school and we moved into a three-room flat. We left our small girl with the lady downstairs while I returned to teaching to support the family. One month later, through an error in birth control, I became pregnant. The Board of Education informed me that I could only work another four months and then not return to the job until my child was one year old.

She says it is her child even though she has only been pregnant for four months. She continues:

We had no room for another baby nor did we have an income to support one. I spent half my pregnancy bringing up my meals. But we managed to survive our crisis. That was three years ago.

My husband graduated last April. We are still bursting at the seams in our three-room flat. Our 'unwanted' baby is a healthy bouncing fellow and I wouldn't trade him for anything. I would like the West Hill mother to get in touch with me so I can tell her how we were victorious in a situation that was not unlike her own.

Here is another mother, Mrs. Ann Hunter of Richmond Hill, who became pregnant again almost six years after she tried desperately to have an abortion and even considered suicide. She writes:

My family situation at the time was so difficult I can understand, perfectly, the feelings of the mother in West Hill.

Perhaps it was thinking of my other three children that prevented me from taking the fateful step. And I had a wise and patient doctor who changed my thinking entirely. He made me realize that it wasn't the end of the world for me. He impressed on me the need to get

away from home, by myself, even for a few hours at a time. He also taught me to accept each day as it came and not to dwell on the months that lay ahead.

As I watched Mary Louise, my youngest child, start off for school yesterday, I reflected on how much happiness she has brought us in the last five years.

She is a thoroughly delightful child to have around, whether it is making peace among her brothers and sisters when they are fighting or bringing her father his slippers and ash-tray. Mary Louise is in love with life and I thank God I stopped from taking that life when it had barely begun. I hope your correspondent will have the same feeling when her new child is five years old.

There are two more letters here which are in a very similar vein. They are magnificent letters and show the concern that women have for other women.

**Mrs. MacInnis (Vancouver-Kingsway):** I can produce some of the other kind too. In other words...

**Mr. Holmes:** I have my doubts that you can.

**Mr. MacInnis (Vancouver-Kingsway):** ...I do not think you can prove anything with this sort of thing because there are people and people.

**Mr. Holmes:** I think you can if you have sympathetic doctors and a sympathetic society and we all elevate our thoughts.

**Mrs. MacInnis (Vancouver-Kingsway):** You can have doctors who are sympathetic as you like but you cannot go beyond the law, and the law today says that no matter in what strait the woman is she can get an abortion only if her life is in danger.

**Mr. Holmes:** And the law could be amended to read that we provide homes, decent food and so on for these people who are suffering and starving so that we do not have this problem. However, it is up to you, Mrs. MacInnis, and all the other members here to do this.

**Mrs. MacInnis (Vancouver-Kingsway):** And I would suggest that you and the public should do it too.

**Mr. Holmes:** I agree, the public should.

**Mrs. MacInnis (Vancouver-Kingsway):** But I have had letters written to me asking how come we have a Committee of 24 and there are only two women on it. In other words, on this particular matter neither our witnesses nor the make-up of the Committee have been sufficiently representative of the view of the people who are really affected. I myself am not affected but we could have people who are and I do not think we have had them.

**Mr. Hackett:** Might I answer that. There are only four women available in the House and 50 per cent of the voters of Canada are women. Now this is their fault.

**Mrs. MacInnis (Vancouver-Kingsway):** I have written people to exactly that effect.

**Mr. Cowan:** It is not their fault; it is their responsibility.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, and I told them that. I do not know whether or not we can do it but I would like very much to hear the experiences of some of those people who have either in the past been caught in this jam or are caught in it right now and cannot do anything about it.

**The Chairman:** If you would like to go to the Clerk of the Committee and read her correspondence you will find all sorts of this.

**Mrs. MacInnis (Vancouver-Kingsway):** We have been getting that too, have we?

**The Chairman:** Yes.

**Mr. Hackett:** Mrs. MacInnis, might I ask you a question. Does not the whole thing resolve itself down to one fine point: you equate the future life of this unborn baby against nine months of whatever you like.

**Mrs. MacInnis (Vancouver-Kingsway):** It is not a choice between right and wrong; it is a choice between right and right. You have to equate in some cases the life of this foetus with the life, health and so on of a grown woman and also, the fact that she is the mother of three or four other children and the wife of a husband. This is the choice we have.

**Mr. Hackett:** Yes, but she does not have to raise that child; let it live and then she could have it adopted.

**Mrs. MacInnis (Vancouver-Kingsway):** If she dumps it...

**Mr. Holmes:** She could dump it to someone else, who would give it loving care.

**Mrs. MacInnis (Vancouver-Kingsway):** I heard you say this morning, Mr. Holmes, that if a responsible man gets a woman pregnant and she decides to go through with it she would have the option of giving that child out for adoption. This, to my mind, is a very unsatisfactory substitute.

**Mr. Hackett:** What about the second abortions you have asked for, Mrs. MacInnis?

**Mr. Holmes:** Do you not think keeping the child alive is a very satisfactory substitute to killing it?

**Mrs. MacInnis (Vancouver-Kingsway):** We are getting completely into another field but, to my mind, to simply say, "Let her go through with the pregnancy because there are all kinds of loving hands waiting to adopt that child," is wrong. I do not believe that for two minutes and all you have to do is pick up the *Ottawa Journal* or the *Ottawa Citizen* any day you like and you will find that dear little Tommy or cute little Mary is asking for a home. All over the country it is the same way; they do not find a home.

**Mr. Hackett:** There are 91 per cent adoptions in Ontario.

**Mrs. MacInnis (Vancouver-Kingsway):** You talk to some of the social workers in Vancouver. I do not believe it.

**Mr. Holmes:** In cases where it is advertised this is proof right here that mothers care. They say, "We will look after your child, come on over and we will talk about it."

**Mrs. MacInnis (Vancouver-Kingsway):** I know, but I wish we had more statistics on it.

**Mr. Hackett:** What would you do if this woman died, Mrs. MacInnis?

**Mrs. MacInnis (Vancouver-Kingsway):** What woman?

**Mr. Hackett:** This woman you are talking about who is so concerned about the three children she already has. What if she died, if she were killed by an automobile before she bore her baby? What would happen to those three children? What steps would we take?

**Mrs. MacInnis (Vancouver-Kingsway):** We would have to look after them of course.

**Mr. Hackett:** Precisely, and we can do that any day without aborting the next one.

**Mrs. MacInnis (Vancouver-Kingsway):** Well when we are in a position to better care for the large numbers that we are not looking after now I think we will be in a better position to say what we will do with more.

**Mr. Hackett:** You regard abortion as a substitute for social justice. Is that your idea?

**Mrs. MacInnis (Vancouver-Kingsway):** No. If you want to go off on that chase, I do not.

**Mr. Hackett:** Well this is your chase, not mine.

**Mrs. MacInnis (Vancouver-Kingsway):** No, it is not.

**The Chairman:** I think the argument is getting rather futile. Are there any other questions or comments?

**Mr. Cowan:** I have only one question and I did not plan to ask it. I would like to ask Mr. Hackett when he was reminded just now of the majority of 71 per cent against a minority of 29 per cent, if he is aware that a great majority of the members of Parliament have been elected on minority votes in their own ridings?

**Mr. Hackett:** Yes, I am aware of that.

**Mr. Cowan:** That is all I have to ask. Might I extend the thanks of the Committee to these two witnesses for coming to Ottawa and presenting their views and convictions so ably and forcibly to this Committee.

**The Chairman:** Yes. As Chairman I would like to thank Mr. Holmes and Mr. Hackett for coming here today.

The meeting is now adjourned until next Tuesday when we will have before us the Board of Evangelism and Social Action of the Presbyterian Church in Canada.

APPENDIX "S"

Present Law on Abortion  
CRIMINAL CODE, Chap. 51  
Abortion.

*Procuring miscarriage.*

237. (1) Every one who, with intent to procure the miscarriage of a female person, whether or not she is pregnant, uses any means for the purpose of carrying out his intention is guilty of an indictable offence and is liable to imprisonment for life.

*Woman procuring her own miscarriage.*

(2) Every female person who, being pregnant, with intent to procure her own miscarriage, uses any means or permits any means to be used for the purpose of carrying out her intention is guilty of an indictable offence and is liable to imprisonment for two years.

*"Means" defined.*

- (3) In this section, "means" includes
  - (a) the administration of a drug or other noxious thing,
  - (b) the use of an instrument, and
  - (c) manipulation of any kind.

*Supplying noxious things.*

238. Every one who unlawfully supplies or procures a drug or other noxious thing or an instrument or thing, knowing that it is intended to be used or employed to procure the miscarriage of a female person, whether or not she is pregnant, is guilty of an indictable offence and is liable to imprisonment for two years.

Section 209, under Murder, Manslaughter and Infanticide, reads as follows:

*Killing unborn child.*

209. (1) Every one who causes the death of a child that has not become a human being, in such a manner that, if the child were a human being, he would be guilty of murder, is guilty of an indictable offence and is liable to imprisonment for life.

*Saving.*

(2) This section does not apply to a person who, by means that, in good faith, he considers necessary to preserve the life of the mother of a child that has not become a human being, causes the death of the child.

APPENDIX "T"

Submission to Chairman, Dr. Harry C. Harley, and the House of Commons Standing Committee of Health and Welfare respecting the urgent question of widening those sections of the Criminal Code that apply to the legality of abortions.

Barry M. Holmes.

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Chapter 1

PREGNANCY

*IS A FETUS A HUMAN BEING?*

CONCEPTION

In the beginning the male and female unite as one.

If a male ejects potent sperm and the egg (ovum) is ripe and ready for fertilization, within hours a few of the millions of microscopic sperm cells released by the male swim up to the thread-thin Fallopian tube and one penetrates the egg. This is known as conception.

Unless fertilized and activated by a sperm cell, the egg cell has a very short life span.

You can perhaps call each sperm and egg cell a genetic package because each cell contains at least 15,000 genes.

Several days pass before the sub-microscopic genes of the fertilized eggs are activated to form a completely new genetic package, which, if it survives, has already begun to 'program' potential looks and organs and glands and sizes from embryo to fetus to baby to child to adolescent to a totally formed person of 25 to 27 years of age. Thereafter the physical growth process is just about over.

Five days after fertilization the critical third stage is reached when the zygote increases in numbers of cells and becomes a blastocyst of more than 100 cells and through a process of tearing up spongy, tiny fibres of the placenta, it is nourished by tiny blood particles released and builds itself a nest of the scar tissues with which it is soon completely covered over.

This is known as nidation, the state in which the fertilized egg is no longer a free floating agent with the great possibility of becoming part of the menstrual flow. This is the moment a woman becomes pregnant, offspring having been accepted by mother for the first time. We now have an embryo and if for any reason thereafter it is rejected by nature or man, an abortion has been performed. After implantation the woman is pregnant and will continue to be pregnant until she gives birth to baby or is for some reason aborted.

According to Andre E. Hellegers, associate professor of obstetrics and gynaecology, Johns Hopkins University: "At that stage, one pole of the mass of cells becomes the placenta or afterbirth, and the other becomes the fetus as we know it.

"It is not, therefore," continues Dr. Hellegers, "until after implantation that the developing zygote loses its totipotentiality of its cells. After implantation that part of the embryo which is not the placenta inevitably evolves into a fetus unless something goes wrong. Whatever goes wrong will never turn it into anything other than a *dead human fetus*." In other words it will never be a blastocyst, zygote, spermatozoon or ovum again.

If she loses the embryo or fetus it is called an abortion. If nature claims it because the mother is weak, the fetus or mother has a disease, the fetus is a medical oddity or the mother has inadvertently made it impossible for the fetus to grow, it is called a spontaneous abortion. If she deliberately lifts a piano or swallows a drug or induces artificial labor or in some other manner succeeds in rejecting the fetus, it is called an induced abortion. If the fetus is removed by a doctor in a hospital it is called a therapeutic abortion. The removal of the fetus by a person not empowered under law to perform such an act is called a criminal abortion.

#### A UNIQUE INDIVIDUAL

After the die has been cast, or, "a unique individual, never entirely like either parent or any ancestor," has been developed, as writer Geraldine Flanagan put it, in a moving book 'The First Nine Months of Life' (Simon and Schuster, New York, 1962), it becomes youngest of human beings and its cells will multiply until it is old enough to leave its mother's womb, just as a baby's cells will continue to multiply until it blooms into full manhood or womanhood capable of procreating the human species and making a livelihood in the world away from home and parents.

Now the woman is pregnant, but probably won't know this until at least a month later when the pinprick, (ovum), now 10,000 times its original size, prevents menstruation and then arouses suspicions of the mother that she just might be with baby since her customary bleeding is seemingly late. By then the embryo is a quarter-inch long and has the distinct shape of a human being.

Since almost every woman, who wishes to avoid pregnancy, won't knowingly seek an abortion until it has been established that she might be pregnant, she probably won't be able to deliberately induce, or ask for a

"therapeutic" or criminal abortion until the fetus within her looks like just what it is, a tiny human being.

Attached to the uterine wall, the fetus goes through a host of known and definable stages, but none makes it any more or any less human that the moment of nidation the instant the woman unknowingly became pregnant and nourishes the fetus, unless by stretching the imagination to ridiculous lengths, one is prepared to argue that the baby is non-human or less human than the adult because it has fewer functional organs than the adult.

#### RESPONSIBILITY OF COMMITTEE

It is strongly urged in this brief, that anyone who is at all concerned with the question of the legality of deliberately induced abortions should be wholly cognizant of these facts, so that, if possible, there will be little or no debate on whether the bills under consideration by the Health and Welfare Committee concern the wilfull destruction of human life or whether we are talking simple removal of something that is in no way, shape or form a human being.

Before any conclusive, fair, beneficial or humanitarian recommendations can be made by the Committee of Health and Welfare to Parliament concerning possible amendments to the Criminal Code of Canada where they touch on abortion, this brief contends it must first be established, that the foetus *is* a human being, or, clearly established that the foetus *is not* a human being.

After it has been established that the foetus *is* a human being, *may be* a human being or *is not* a human being, it then may be decided whether restrictions *should* or *should not* be imposed on those who, at a given moment, ask for an abortion.

Let us establish also that we are *not* discussing a point as obscure as the number of angels that can dance on the head of a needle and that we should muster and digest as much scientific fact as we can. The issue at stake here may be far more important than capital punishment which involves the destiny of just a few human beings convicted of murder. The question that will ultimately be decided by Parliament is what or who among the totally innocent unborn are entitled to life or are to be sentenced to death.

Professor Hellegers makes his position clear when he establishes that the fertilized egg (zygote) five days later implants itself: "After implantation (of the zygote into the lining of the uterus) that part of the developing embryo which is not the placenta inevitably evolves into a foetus unless something goes wrong."

#### LOSS OF FERTILIZED EGG IS NOT LOSS OF LIFE

This brief contends, just as Dr. Hellegers does, that loss of the zygote which he estimates is in the order of 30 per cent, is *not* loss of a human being since it does not become a human being until implanted in the uterus lining. When implanted into the inner lining of the uterus however, the woman becomes pregnant and the life the mother carries is in all ways a human being and will continue to be until it becomes a dead human being.

Let us again quote this doctor who seems to be a progressive and in favor of recognized forms of birth control. Loss of the zygote concerns him very little while calculated destruction of the foetus concerns him a great deal. It is interesting that he declares that attempts to differentiate a human from a non-human *after* implantation is a throwback to the Middle Ages:

"As regards the action of the IUD (inter-uterine device), or the incidence of the loss of zygotes," he says, "these are things which happen before the stage of implantation and differentiation of the dividing cell mass into placenta and foetus."

"It should, however, be very clearly understood that these stages (prior to implantation) have no implications for the civil law. It has always been permitted to empty a uterus when there is no implanted foetus in it. Even the ethical and religious directives of the Catholic Hospital Association of the United States and Canada do not demand that medical practitioners worry about the stage prior to implantation of the fertilized ovum."

"Curettage of the uterus, or its removal as an elective procedure, is tolerated in the second half of the menstrual cycle of the patient, when a fertilized ovum may be present. It is only when the zygote has implanted into the uterine wall and begins its differentiation into placenta and foetus that the civil law, and the rules of the Catholic Hospital

Association of the United States and Canada take effect."

"This is important, since it tells us that it is perfectly legal under the civil law to curette a uterus within five days following fertilization, e.g. after rape, thus preventing implantation of the zygote. The practical question is whether it is reasonable for the raped woman to report the event to a physician within five days."

"To attempt to differentiate a human from a non-human *AFTER* implantation is surely a throw-back to the Middle Ages..."

The embryo, without any doubt, is the one and very same life that may live a day, a month, a year, thirty years or the old age of 100 years. If we contend that it is a very young human being, let us look for even more proof or at least establish as much incontrovertible evidence as we can to prove *almost* beyond any doubt it is human.

Geraldine Flanagan's 'The First Nine Months of Life' is perhaps a good place to start.

In the last paragraph of her introduction to her book, Mrs. Flanagan writes: "The prize for man in the study of embryology is not merely to satisfy curiosity. The knowledge of the biologist can enrich the skill of the physician. This is the frontier of embryology today: to understand the mechanism that governs and controls orderly growth in time perhaps to prevent, perhaps to treat, the puzzling departures from the orderly patterns."

"The prize is also that we can try to be as intelligent about 'intra-uterine' mothering as we try to be today about care of our children after they are born. This increased awareness can also bear the fruit of increased enjoyment."

On the first page of the book proper there is a magnified picture of a forty-day-old embryo that can readily be identified as a human being. It may be seen that its head, eyes, body, forearms, afterarms, fingers, legs and feet are in various stages of development.

On the opposite page, a life-size photograph of the same embryo shows that it is now three-quarters of an inch long.

#### TOO SMALL TO BE HUMAN?

Several times in the past month, the writer of this brief has heard people contend that

the embryo could not possibly be a human being at this stage of development just when most mothers begin to suspect pregnancy, because it is too small. Perhaps however, anyone who uses this line of reasoning will also contend that the two-foot-tall male dwarf is non-human too, because even though 30 years old, he couldn't possibly be a man.

Under the guidance of Drs. George W. Corner and Davenport Hooker who reviewed the text of her book, Mrs. Flanagan describes the photograph mentioned above: "Forty days after mother and father have come together to create a child, the child will look just like the embryo baby in this photograph. Barely six weeks after its first beginning, the embryo has a well-formed body. It is very much alive and can even execute some movements with its arms. *It has a heart that has been beating for two weeks. It has a brain and a nervous system sending out impulses. It has the outlines of a complete though still soft skeleton and all the vital organs, some of them practicing their functions.* On close examination it is already possible to know whether the embryo is a boy or girl.

"The forty-day-old human is so small it would fit into a walnut. It weighs less than a book of paper matches. The forty-day-old embryo is still a long way from being able to live without an intimate life line to the mother. For all its apparent perfection, it is still far from completing its development. It has fulfilled only one-sixth (forty of the 266 days) of the normal stay in the womb.

"The pages that follow give us a kind of window into the womb. Through it we can watch a baby from his first moment, his *real birth*, which precedes the day of being born by nine months."

The 'Life' magazine reporter, who for eight years specialized in science and medical writing, gives us a clear, simple and beautiful picture of the human life cycle prior to birth relying on the material in four medical text books, 12 books and monographs, and other documented material published in 30 papers all concerning embryology.

### THE FETUS IS A HUMAN BEING

#### FURTHER PROOF:

If any further proof is required that it is a human being, author Flanagan states: "By the end of the first month a whole embryo

is formed. From head to heel it is a quarter to half an inch long. It is the size of half a pea, fragile as jelly and almost without substance. One can hardly see the fine detail of its structure. But the body has a head with rudimentary eyes, ears, mouth and a brain that already shows human specialization. There are simple kidneys, a liver, a digestive tract, a primitive umbilical cord, a blood stream and a heart... After a few days of practice, it pumps sixty-five times a minute to circulate the newly formed blood that is needed to nourish the embryonic tissues. The blood flows through the embryo in a simple closed system of vessels that is *separate* from the mother's blood circulation."

If the statements above are essentially accurate, even if in error in some minor respects since the science of embryology is itself relatively young, then this brief submits that those who would deny that it is human share the same intellect of members of the Flat Earth Society, who, even though it has been shown time and again that the earth is shaped more like a ball, cling to the ancient belief that the world is flat.

Again for those who would use size of fetus as the criterion to establish the human from the non-human, 'The First Nine Months of Life' points out: "By the end of the (first) month the embryo completes the period of relatively greatest size increase and greatest physical change of a lifetime. The month-old embryo is ten thousand times larger than the fertilized egg was. The single egg has given away to a finely structured, if still incomplete body. In four more weeks, by the end of the second month, it will look quite like a tiny baby."

The first page of her next chapter throws still more light on the probability of the embryo being a human being: "In the first three weeks of this (second) month the primitive embryo becomes a well proportioned, small-scale baby. In its seventh week it bears the familiar features and all the internal organs of the future adult, even though it is *less than an inch long* and weighs one-thirtieth of an ounce. It has a human face with eyes, ears, nose, lips, tongue, and even milk-teeth buds in the gums. The body has become nicely rounded, padded with muscles and covered by a thick skin. The slower growing legs have recognizable knees, ankles and toes."

This being not only has many of the characteristics of us who can read and write and

talk, and the new born baby who can cry, but it also has organs performing the same vital functions our own do. The writer explains: "The new body not only exists, it also works. The brain, in configuration already like the adult brain, sends out impulses that co-ordinate the functioning of the other organs. The heart beats sturdily. The stomach produces some digestive juices. The liver manufactures blood cells and the kidneys extract some uric acid from the blood. The muscles of the arms and body can already be set in motion."

### THE KEY PREMISE

Perhaps the next paragraph is the clincher on which the author of this brief will permit his entire presentation on the abortion question to stand or fall. If this paragraph can be proven to be substantially inaccurate, proven beyond any reasonable doubt that the embryo is *not* human, then let it be said that the pregnant woman has a perfect right to demand an abortion any time she wishes.

The paragraph about to be quoted, this writer suggests, demonstrates however that we have every reason to believe, until proven wrong if such proof exists, that the embryo, and fetus that follows, and the baby that follows that, right up to the readers of this brief, are all human beings varying only in degree of age, size, shape, sex, race, intelligence, occupation, place of abode and so on.

The author of 'The First Nine Months of Life' states: "When the embryo reaches (its seventh week) such completion (functioning brain, heart, kidneys and so on as quoted above) safely and without impairment, it has a good start in life. Now it is ready to enter the next phase of development. Until adulthood, when full growth is reached between the years of twenty-five and twenty-seven, the changes in the body will be *mainly in dimension* and in gradual refinement of the working parts."

In other words, it might be reasonably concluded that certainly from the seventh week on, and from pure logic from the point of nidation on, the embryo *must* be a human being. Yet the majority of countries with so-called "liberal" abortion laws permit people who give an oath to save life to kill human beings up to three months old.

### THE WOMAN'S POINT OF VIEW

Ask a woman who is eight months pregnant if the kicking, squirming, restless being in her body is a *human* being, and her answer will be yes. Ask her if her five week-old embryo is a human being and she may give any of three answers, "yes", "no", or "I don't know".

If she says "yes," she instinctively feels that her pregnancy represents another human being or she has at least some knowledge about the reproductive process. If she says "no", chances are she has little knowledge about the life within her, or perhaps she doesn't want to have the baby and therefore consciously tells herself that what she would like to eliminate from her system is a non-human. If she says she doesn't know, well ...at least she is being honest in her answer.

Of modern books written on embryology, Mrs. Flanagan's 'The First Nine Months of Life' surely ranks as a leader. Written in lay terms and published in English, French, Spanish, German, Polish and Japanese, to name just a few of the languages, it is the kind of material that should be taught in our public and high schools so that every child and young adult and teacher too, can acquire a basic and sound knowledge about the making of human life.

Coupled with a thorough course in family planning and birth control the younger generation, tomorrow's parents, will know a great deal more about procreation and will respect the wondrous potentials of their bodies than most of us parents ever have.

### SOCIETY'S RESPONSIBILITY

Someone once said: "Where there is correct thought, right action will follow." This maxim could apply to no situation more than the need to teach future adults about the facts of life in home and school.

Before exploring the abortion question in more depth, it is enough to say that the Federal Government is to a great extent responsible for the unwanted conceptions that two and three months later have resulted in criminal abortions and in some instances, tragedy. Years ago the Government of Canada should have changed the Criminal Code to permit education and dissemination of birth control information and devices.

Society is also to blame for not forcing its Ottawa representatives to get with it on the question of birth control and is responsible for not making sure before now that our young people are educated as to the basic facts of life so that they don't have to get their sex education through trial and error and back-street alleys.

## Chapter 2

### A NATURAL RIGHT TO LIFE

One of the most compelling arguments that must be answered by those who contend that deliberate abortion is usually deliberate murder is to establish that the human fetus is a human being, is *not* part of its mother's body and as such has a natural right to life and protection by society.

The abortionist usually contends that it is none of society's business what the woman does with the fetus she carries.

If the fetus is "unhuman" or of little more consequence than a fetus carried by a cow, the abortionist is completely correct and in no way should be challenged by friend or foe. If however, it is believed to be human, society has every right to contribute to its protection even though it belongs to no one other than its parents.

Every time a new-born is found in a garbage dump or floating down a river, society is horrified. Why didn't the mother give it up for adoption or warn someone what she was going to do? the public asks.

Why didn't the government provide that woman with a decent place to live, social help, psychiatric care, a food allowance, advice and a feeling of being wanted? the newspapers scream.

Every one of us should ask these questions until we find the answers. But, the very fact our conscience is pricked each time we hear an innocent baby has been killed seems to mean that we still believe that we *must* protect human babies even though they belong to their parents.

At the same time we admit that we at least suspect that the fetus is a member of the human race by the very fact that few of us accept the minority demand of abortion on request.

We also go to great pains and expense to prevent a mother from contacting a virus that may damage the fetus. In large numbers

we totally reject any suggestion that abortion is the cure-all for squalor, misery and hunger. Even though we know that many babies leaving the hospital will live in the slums of Toronto or an impoverished Indian settlement or the barren shoreline of Newfoundland, no one seriously advocates a compulsory abortion law so that the child is not to be brought into these miserable surroundings.

We know that there are better answers than this—there must be better answers.

If there is no other solution, one sure way of solving the poverty problem would be to slaughter all those living below what is commonly known as the poverty line. Such a step would undoubtedly put millions of Canadians out of their misery; yet every fibre in our human bodies tells us that a decision would be a crime against humanity—equalling Hitler's systematic extermination of millions of Jews.

For these reasons, the person who says that a pregnant woman may do anything she likes to her fetus is in error. Whatever happens to that innocent being will in some way affect society. To kill in vengeance is wrong, to kill an innocent human being who has committed no crime is doubly wrong. Society must protect the human fetus as it does the baby fresh from the maternity ward.

The health and welfare of the human fetus is very much the concern of society and as much as the desperate pregnant woman may cry that it belongs only to her, it is a life that medicine, government, and society recognize as a unique, individual life and is obliged to protect. Why else would society be so concerned about threats to heredity, such as atomic radiation, LSD, and certain diseases?

In short, a woman does not have the right to kill her fetus unless there is a very compelling and necessary reason for taking such a drastic measure. Fortunately in Canada today, the cases in which such a drastic measure has to be taken are exceptionally rare.

### IMPORTANCE OF PUBLIC EDUCATION

If legal and illegal abortions are to be reduced to an absolute minimum, legal, medical and public attitudes must change on the question of birth control.

If women want to avoid pregnancy, abortions and giving birth to "unwanted" children, public and private agencies, churches,

planned parenthood organizations, the medical profession and many other groups must receive wholehearted support and encouragement in their efforts to educate fertile and potentially fertile men and women. More information clinics will have to be established and advice to all women should be as close as the nearest telephone.

Last year, the Standing Committee on Health and Welfare made recommendations on amendments that should be made to certain sections of the Criminal Code so that those who are qualified will no longer fear that they may be taken to task by Government authorities for advising young couples how to prevent pregnancy.

On Thursday, March 24, 1966, in the Minutes of Proceedings and Evidence No. 5, Dr. Maurice Jobin of Montreal, member of the Executive of the Family Planning Federation of Canada, was quoted as saying (Page 99): "I think family planning is a part of total sex education which has been extremely deficient, not only in Quebec where I live, but generally in the whole of North America. I think that while we try to promote information on family planning, we will have to do a terrific amount of work on sex education at the same time.

"I was asked on a television program about two weeks ago, by an interviewer who probably wanted to put me on the spot, what I would do if a young girl came into my office and asked me for pills? I told her that my duty as a doctor was to inform her, not to moralize or preach her sermons, and that I would rather give her pills than have her come back in two months asking me for the name of an abortionist. That is the way I look at it, on the theory of the lesser evil."

In the Family Planning Federation of Canada brief attached as Appendix "A" of the March 24, 1966 minutes, one paragraph shows the importance of birth control education (Page 123): "Evidence indicates that if family planning information were made available, the number of women seeking abortions and suffering the tragic results would be reduced.

"In Corpus Christi, Texas, where a Planned Parenthood Clinic has been in operation since 1959, the number of births in a charity hospital clinic has dropped from 2,159 in 1961 to 1,637 last year (1964), and there has been a four per cent decrease in the number of women seeking treatment for

bungled illegal abortions—and the poor there, largely of Latin American stock, are about ninety per cent Roman Catholic."

One could go on and on quoting from authoritative sources such as the Planned Parenthood Association, medical associations, and many others, on the importance of making accepted birth control information and education available on an almost universal scale to teenagers and men and women who are fertile and capable of producing children.

This brief contends that if society recognizes the need for making birth control and contraceptive information and devices readily available to all who ask for them, the number of women seeking abortions, legal and otherwise, would drop immensely.

#### BREEDING A RACE OF "PURE AND FLAWLESS" CANADIANS

It won't be more than a few years before medical science makes new contributions to world society.

One medical advance in the not-too-distant future will be a series of simple techniques and tests in diagnosing the mental and physical development of the 40-day-old fetus.

The second major advance will be the application of medicine to the unborn in almost as simple a manner as doctors use for parents who bring babies into their offices.

There is no question in anyone's mind that the whole world will benefit when a fetus can be treated for a host of diseases and complications just as you and I are treated for them when these things are detected by our physicians.

But in cases where medicine can detect minor and major flaws during the growth process of unborn children, it will then be possible, if society so wishes, to kill those unborn children who do not fit the vague definition of "normal" or those unborn children who may be what some call a liability because they will ultimately need more time, attention, understanding, love and medical care than most other children.

The deaf-mute or blind for instance. If Britain's recently enacted abortion laws become part of the social structure here in Canada, it will soon be possible, by permitting abortions of those unborn children who may have a "physical or mental defect" to breed a Great Canadian Society which can proudly boast that it is completely free of

blind and deaf-mute children. Canadian propaganda could go even further and make the claim that our country allows doctors to abort imperfect little children and that we have the lowest birth rates of defective children in the world.

We could claim that the time, talent and physical resources we devote to improving the lot of children with handicaps has been cut in half and soon will be entirely eliminated. We will tell the world that all the voluntary service clubs are freed from the burden of helping to care for those unusual children, such as thalidomide babies, who have pulled society down by crying for special help and attention. From the abortionist's point of view, although this sounds terrible, service clubs will now be able to devote their energies to better, more useful and noble projects. They will no longer have to waste time and money looking after handicapped children. What these better projects will be, this writer does not know, but surely the abortionist has the answer.

Few societies kill the imperfect baby after birth, and, despite the position taken by most abortionists, this brief contends that society would be making a grave error to permit the cold and calculated killing of an imperfect baby before birth.

Any doctor who aborts the fetus carried by a mother who contacted rubella during her first trimester is taking a very serious risk of removing a child that is in no way defective.

If imperfection of child is to be the criterion for death then we will be taking a terrible toll of innocent, that is, "perfect" babies who really had the right to live but were killed in error because of a faulty and tragic diagnosis.

If we become as abortion-minded as the Poles and Hungarians, perhaps the prediction made a few moments ago that Canadian women will soon bear few if any "imperfect babies" may not be as wild a prediction as it appears to be at first sight.

While some people suggest that children with defects are a burden to society, this brief suggests the exact opposite. Willingness to care for those who need special attention strengthens our social structure and brings out the best in us.

## THE IRONY OF ABORTING THE UNBORN AND WORKING FOR THE BORN

It is somewhat ironical that family planning groups, more than several outspoken rabbis, the Unitarian Church, and a number of the nation's largest newspapers come out so strongly in favor of abortion when they are also the very ones who go out of their way to improve the lot of suffering children. How much easier it would be, and how much more sense it would make, if those who favor abortion for all sorts of different reasons came out in favor of infanticide too. Think of the countless miserable children in Canada who could be mercifully relieved of pain through mercy killing, just as aborted children are relieved of pain before they are even capable of suffering it.

If it is found that the human fetus is a human being, or, if there is any doubt, and the law is still amended to permit surgical removal of the fetus because it is unwanted, then it must be said that the law should also permit mothers to kill their babies once they are born if such children are "unwanted" and become a burden.

In Canada fortunately, the law makes such an act a criminal offense. As miserable as life may be for some children, many of us do our very best to improve their lot. It is recognized throughout the land that we are capable of producing enough wealth and we can build up enough facilities to relieve their suffering at least to some extent. If a Canadian politician ever advocated the ancient Chinese method of preventing babies from being a burden to the economy, he would be called a human butcher.

## DO MEN HAVE THE RIGHT TO EXPRESS AN OPINION?

Frequently the accusation has been made by men and women that men should have no right to express an opinion or to shape a law that specifically deals with abortion since it is the female who carries the child and the burdens inherent with that task.

After all if a woman wants an abortion, it is the woman's foetus, the woman who bears the pain, and she should therefore have the right to do what she likes with that foetus without meddling men complicating things more than they already are.

It is not the father who has to bear the seventh child, the baby that may be born

with a mental or physical defect, the single girl who thinks she and her family will be disgraced.

There is something compelling about this line of reasoning because it contains a kernel of truth. If a male and female have intercourse and the woman conceives, and for some reason doesn't want the baby, in most cases her grief is bound to be greater than her partner's since she is the one first to learn of the pregnancy and is the one who carries the child.

Why therefore should it not be her sole decision to abort or carry her baby through to birth?

There are several reasons. One is that the foetus belongs equally to the father since he was half responsible for its creation. Another and most important reason is that there is now a third human being involved—a person who had absolutely no say about the fact that he or she is now developing at fantastic speed in the uterus of the mother.

To kill such an innocent child because the mother doesn't want it would be to adopt a practice as primitive as the Chinese who threw their babies into the sea when their province was plagued with a famine or war.

Nay, it is even more barbaric than that. In Canada we have the wealth, institutions and childless couples to properly care for "unwanted" children. To slaughter them simply because their mothers are fourteen years old or depending on welfare payments for food and shelter amounts to nothing less than the Spanish and French inquisitions which, in the name of Christianity, burned those "unwanted" people who were believed to be inhuman witches.

In short, the male is as responsible as the female for creating human life and therefore should have as much say as the female when it comes to passing out the death sentence.

As sovereign Canadian people in control of our own destinies, the contention that only half of us have the right to say who lives and who dies is simply as repulsive as it is utter nonsense.

#### WHAT IS AN UNWANTED CHILD?

Is it a little boy or girl that should have been sucked out of its mother's womb with a vacuum device or scraped out with a surgical rake?

Is it someone who will be a burden to Canada and will not be capable of ever giving something to mankind?

Is it a slum child with one eye who receives jeers and insults from *wanted* children?

Is it an accidental pregnancy that ruined the promising career of a female medical student?

Is it scum, filth, dirt, or something far inferior to those children who are fortunate enough to be wanted?

In the eyes of its parents who don't want it, it is obviously a member of the human race who should never have been allowed to see the light of day. In many cases it is a bastard, an illegitimate child that was a mistake. Yet, in most cases, given a chance to life, it becomes the pride and joy of the family, a beautiful little baby that makes mom and dad feel a pride rarely felt before.

The above are cynical questions perhaps, but then if you talk in any circle about killing, you are bound to arouse heated passions. While most Canadians abhor the atrocities committed by the Third Reich, some in Canada, perhaps some who are mentally sick, still maintain that Hitler had only one failing—his government didn't exterminate enough Jews.

When a woman becomes pregnant, she suddenly begins carrying a child that didn't ask to be born. Chances are less than one in 100, that it announced its creation because of incest or teenage girl being assaulted in the park by a total stranger.

It is estimated that in 65 cases out of 100, this child was conceived through the love play of its married father and mother. Eight weeks after the child's mother discovers that she is pregnant, that she is with baby, because she doesn't want that child, does that give her or her doctor the right to kill it?

We pride ourselves on a superior civilization. The thought of eating babies as a few former civilizations have done is enough to make us vomit. It sickens us to read that an hour-old-baby has been found in the incinerator or trash can. Where do doctors and quacks put babies at six months that have been clawed out of their mothers' wombs. Answer: In the trash can or incinerator.

No medical practitioner can ever guarantee that a mother's baby will be a perfect child both mentally and physically. Yet, rare is the

case indeed that a child, delivered on the maternity table is then killed because it has no legs, has a hole in the heart or that it won't be able to speak or hear like most other children.

Why, when a doctor predicts that there is one chance in two that the child whose mother had contacted the German measles during her first or second month of pregnancy, why when there is a chance in two that the child may be born with a mental or physical defect should the mother have the right to destroy this most innocent of human beings? Answer: Because the question of legalized abortion is an emotional subject, and some fathers and mothers think that they can hide a false shame by destroying the very life they have created.

If this should be permitted, then too it should be permissible to kill one and two years olds who have at least had the opportunity to prove to the world that they will be burdens. In fact, it is much more logical to kill a two year old than an embryo merely two months old, because medical science can determine if the two year old is mentally retarded, is sick, is blind or has a defective heart. With an embryo doctors can only guess.

Some unwanted children are those with a black father and white mother, or, a yellow father and red mother. If the parents don't want a child of mixed racial parentage, it should be killed too as babies of several bloods are often hard to put up for adoption.

If you consider a pregnant woman the carrier of human life, you must think this way unless you believe, as millions of whites in Africa and the Southern United States believe, that blacks are inferior to whites in every respect imaginable. If you believe that the fetus is human, and still advocate free abortions, then you must also believe that you have more right to life than a fetus or a five-year-old child because the five year-old is not fully developed either. You must believe, if you are of this mind, that you have a right to say whether the six-month-old baby lives or dies. It dies, according to these theories which will surely be totally rejected by the large majorities of Canadians, because it is an unwanted child.

The single and only case against the unwanted foetus is that it is not a human being. Dig out the facts, haunt the great libraries, talk to the leaders in the field of

embryology, study the medicines and sciences and prove beyond reasonable doubt for the benefit of both those who advocate the legalization of abortion and those who are against it, that the embryo and the foetus are not human. Then may we on both sides of the fence unite and exclaim to our legislators that we want the law changed so that any woman who wants to procure an abortion may have one. Those who have established that an embryo or a foetus is not human however, must also state and prove to the satisfaction of those who may doubt exactly what these creatures are.

There must be no doubt in this question, otherwise the decision to abort amounts to manslaughter when or if it is proven to be a legitimate member of the human race. The duty of a lifeguard is to ensure that no one drowns in the body of water he is responsible for. If a woman or a child yells for help and it takes the lifeguard five minutes to pull the unconscious body up on the beach, he may then be of the opinion that it is too late, that that person has no detectable pulse and is dead. It is his duty however, to apply artificial respiration to that person in the hope that a human life may be saved. Lifeguards are explicitly instructed not to treat a person as dead until there is definite and positive proof that that person is dead and there is no hope of bringing him or her back to life.

Hence the need for positive, unquestioned proof that the new life in a woman's womb is not human life. If it's not human and it's not wanted—the woman who carries it has every right to ask that the doctor destroy it, and the doctor is duty-bound to see that either he or a colleague does it so that she is not forced to go to a quack.

### ABUSED CHILDREN

Let us forget the abortion question just for a minute and briefly examine the world of children who suffer pain, hunger, cold and perhaps most serious, mental anguish. We know that there are many children in Canada, living in cities, towns, villages and in the countryside who are unwanted and abused by their parents, and/or relatives and/or brothers and sisters and/or their playmates and teachers, for a large number of reasons.

Newspapers, radio, television and just plain word of mouth quite properly publicize child beatings, deliberate starvation, indecent

assault and many other abuses maliciously forced upon the innocent child because he is not able to defend himself, has the wrong skin color, wets his pants, or cries too much.

Each time one of these cases appears in court or in other ways is brought to public attention, the public demands two things: first, fair play and loving guardians for that child; second, apprehension and punishment for the man, woman, or fellow-child who made another needlessly suffer.

There are of course, many, many cases where the guilty one is never caught and the innocent one is forced to endure many months or years of mental or physical pain.

Canadian society, it is respectfully submitted, must do far more than it does now to protect that child. We must commit ourselves as individuals, as groups, as churches, as social workers in the broadest sense of the word, and governments, to use all the love, and other tools at our command, to ensure that each and every child has the opportunity to grow into a mature, decent young adult who sells medical supplies rather than black market drugs and drives a taxi rather than a hold-up car.

Will the annihilation of unborn children solve this problem? No. A thousand times no.

### CHILDREN AND ECONOMICS

Those of us who ever have visited the ghettos of our cities or rapidly deteriorating sections of our suburbs and see parkless neighborhoods literally crawling with kids (to use the street language), may perhaps, wonder at times, if abortion, even if it is the destruction of human life, is a means to justify an end. If you see scores of children who have not had a bath for a week in rags, you could ask perhaps if it would have been a better world without them and the most painless way of taking this step would have been to ask some doctor to abort them. This may sound like a plausible answer until we stop and ask another question: Wouldn't the world be a better place for all of us if we killed half of the human race? I suspect the reason that this idea has never been formally introduced in the public forum is that every single one of us believes he has a right to life and would take almost any measure to attempt to be in the half destined—or chosen, if you like—to live.

In short, killing off half the neighborhood kids, is not the answer to a more humane and just world.

In many respects, we here, and the rest of the people in Canada are products of our environment. Time and again there has been proof that children reared in wretched surroundings, by a single parent, are much more likely to procreate children like themselves than children who are brought up in warm, secure homes where there is very little likelihood of dad leaving mom after a household quarrel.

In government studies and many stemming from other sources it has also been shown time and again, that those who are continually unemployed, partially employed or earning marginal incomes are the ones who have children who are most likely to be society's problem children and delinquents.

### AN "IDEAL" ABORTION PROGRAM

For those who consider that the fetus is not a human and therefore should have none of the benefits of state law protection, it seems that they must, if only to be logical, advocate abortions with no questions asked at the request of the pregnant woman.

In this regard, the model nation to follow would be the People's Republic of Romania.\*\* According to 'Family Planning and Population Programs', pages 222 and 223, abortion in Romania is considered the ideal form of family planning. So long as a woman goes to the abortion ward of a hospital or the outpatient clinic of a factory for 30 lei (\$2.50) she may have an abortion and is allowed to go home two hours later. Following passage of an abortion law, according to the paper on Romania submitted to the International Conference on Family Planning Programs held in Geneva, Switzerland, August 23-27, 1965, abortions increased from 112,000 in 1958 to 229,000 in 1959. Where surveys were taken, data from hospitals in urban areas, available for the period 1957-62, reveal a three or four fold increase since 1958. A survey made in a town and a hospital found the abortion rate 3.2 in one instance and 3.5 in another to one live birth. In 1961 when the program was in full swing the ratios climbed 7.4:1 in the one finding and 13:1 in the other. If the figures and estimates are accurate this means that in

\*\* A recent New York report noted that Romania has since outlawed termination of pregnancy for any reason other than to save the life of the mother.

1962 there were 400,000 abortions in a country with a population of almost 17.5 million people. The same figures applied to the U.S. would be an astounding 4 million-plus abortions there annually. Another interesting point in this paper is that the one-child family is considered ideal and 96 per cent know almost nothing about the use of contraceptives.

Other Eastern European countries also have startling figures according to our standards, but few come even close to those gleaned from Romania. Poland and Hungary are but two of the many socialist countries that are going to great lengths to promote use of contraceptives and some of them teach sex education in the schools.

Nevertheless, if abortion is not destruction of human life which may be used as the only criterion for supporting it, Romania obviously has the answer and Parliament would be well advised to permit similar practices here.

If one believes that the human fetus is indeed a human who differs from us only in age and the fact that he has not taken a breath of air, abortion other than in self-defense (to save the life of the mother) is murder, manslaughter, wanton killing or whatever other adjective you wish to give the wilfull destruction of human life.

In a summary of the Swiss conference, Ronald Freedman, director, Population Studies Centre, University of Michigan, who is inclined to favor abortion as a means of family planning, estimated (page 819-920) notes: "Legalized abortion under medical auspices as the leading method (of birth control or family planning) now is a major mass phenomenon in countries with combined populations of more than 400 million (Japan, Soviet Union, Eastern European socialist countries, excluding Albania). In addition, illegal abortion probably is a leading method if not the most important single method used in many countries. (He lists, Korea, Taiwan and Chile as specific examples and Western European countries and the United States where evidence is very poor where the "number of illegal induced abortions must be very considerable.")

### Chapter 3

#### AN EXAMINATION OF THE ABORTIONIST'S\* ARGUMENT

##### (Part 1)

Anyone who takes more than a casual interest in the public debate of whether the Statutes of Canada should be kept essentially as they are now or should be amended to permit abortion for a number of reasons, will be struck by the great number of inconsistencies in the reasoning and logic of those who would widen the grounds for abortion.

#### ADMITS FETUS IS HUMAN

For one thing, the abortionist usually fails to establish, perhaps because there is no proof, that the human fetus is *not* a human life. Indeed, in many cases, as it will be seen later in this chapter, he either admits that fetus is human or unwittingly admits that he is not sure. Rarely, does he contend that the fetus is *not* a human being.

#### WON'T ELIMINATE KITCHEN TABLE ABORTIONS

One of the most fundamental and common arguments used by the abortionist is the shocking amount of human tragedy that is created by unbending laws that force desperate women unwilling to bear children to seek the services of a back street abortionist.

But most of those, including "liberal" factions in the legal and medical professions, who seek wider grounds for abortion do not want to widen the law enough so that any woman may procure an abortion on request. The intent of the Private Members' bills before this committee for instance, would permit therapeutic abortions, only when a mother's life would be endangered by carrying the child through to birth, where there is grave possibility of mental or physical harm to the mother or there is substantial risk of the child being born with a serious mental or physical defect, and, in one bill rape and incest also.

This brief submits that with limitations such as these, there is strong evidence to suggest that the criminal abortion rate, a

\* Abortionist as used in this brief means one who advocates such amendment to the Criminal Code as to make permissible the deliberate act of miscarrying, or killing the embryo or fetus for reasons other than to save the life of the pregnant woman, or, one who would permit a pregnant woman to obtain a legal abortion on request or demand.

crime that all people detest, will drop very little and perhaps rise substantially above the present number, if such a restrictive law were introduced. The reasons for this ominous possibility will also be discussed later in this chapter.

### A LAW FOR THE RICH AND A LAW FOR THE POOR

Another point to be discussed farther on is that the present restrictive abortion laws, some abortionists contend, amount to a law for the rich and a law for the poor. If you are rich, the argument goes, you can fly to Sweden or Japan for an abortion, whereas if you are poor, you are forced to have your child in Canada. If we applied this same non-logic to other situations, it could equally well be contended that if you are rich, you can fly to certain areas in the world where cannibalism is still an accepted practice and partake in the dubious luxury of eating human flesh—a questionable privilege also denied the poor.

### A FETUS IS NOT PART OF ITS MOTHER'S BODY

Another argument that bears no semblance to the truth is that the fetus is part of the mother's body and she therefore has a right to do what she likes with it.

Embryologists have established as scientific fact that the fetus is *not*, and, by no stretch of the imagination could be, part of the mother's body. For a great many years it has been recognized that the fetus has its own genetic makeup, has its own cellular structure, has sole control of its own growth, has its own organs, limbs and bodily functions, sometimes has a different blood type and would in fact be rejected by the mother's body had nature not provided it with a protective coating which will be discussed in Chapter 1. It depends on its mother only for food, oxygen supply and protection long enough to develop to the point where it may leave the womb and survive. If it can be argued that a fetus is part of the carrier's body, it could be argued with as much fairness that pin worms are part of a baby's body.

### THE LOADED LOGIC OF THE RAPE ARGUMENT

The classic legal case in the Western World of abortion arising from rape was that of

Rex v. Bourne, (1938) 1K. B.687: in which a girl was raped by four soldiers and became pregnant.

When Dr. Bourne discovered her pregnancy, he kept his patient under observation for two weeks and during that period decided she would become a mental wreck if forced to carry the child. He therefore aborted her fetus and informed police. In the trial that followed, the charge laid against the doctor was dismissed.

In his now famous instructions to the jury, which have often been quoted by those who would make radical changes in the present law, Justice Macnaghten stated: "*The law of the land has always held human life to be sacred, and the protection that the law gives to human life it extends also to the unborn child in the womb who must not be destroyed unless the destruction of that child is for the purpose of preserving the yet more precious life of the mother.*"

Clearly and beyond any reasonable doubt, Justice Macnaghten established that the fetus is a child and as such, a legitimate member of the human race. The only reason that the law of the land would permit the killing of that human life, he declared, "*is for the purpose of preserving the yet more precious life of the mother.*"

The writer of this brief cautiously supports the not-guilty verdict of that judge and jury and would also permit a Canadian doctor to abort the child under similar circumstances if the doctor kept the victim of a rapist under clinical observation for several weeks as Dr. Bourne did, and with two or three responsible medical colleagues agreed that the mother would become a mental wreck and thereby be deprived of life because of a brutal act that she in no way encouraged.

Some abortionists, on the other hand, frequently use rape as the magic word to widen legal grounds for abortion when they are in fact attempting to legalize abortion for a number of reasons that have nothing whatsoever to do with the terrible act of violating a woman.

The law recently passed by British Parliament refutes every bit of the magnificent logic of Justice Macnaghten's oft-quoted charge to the jury that the "*unborn child in the womb must not be destroyed unless the destruction of that child is for the purpose of preserving the yet more precious life of the mother.*"

The famous jurist in no sense advised his jury to approve of an abortion on the grounds that bearing the child may cause an inconvenience to the mother, that she may have half a dozen children already, or that the child *may* have a mental or physical defect—circumstances under which abortions will soon be entirely legal in Great Britain.

Unlike the many Parliamentarians who recently supported the British Bill to permit abortions for the above reasons, Justice Macnaghten declared in crystal-clear language that only preservation of the mother's life takes precedence over the right of the unborn child to have life.

Justice Macnaghten was either mistaken in believing that the fetus is human or had a great deal more respect for human life than the present Parliament of Britain has for the unborn child.

If a doctor went before that judge and said he aborted the child because he believed it would be a handicapped deaf-mute, or mixed racial parentage and therefore "non-adoptable", the judge certainly would not have instructed the jury to find the doctor guilty of merely performing an act of mercy for the benefit of the unborn child.

As a reason, therefore, for the Health and Welfare Committee to recommend a substantial widening of the present abortions law, the *Rex v. Bourne* rape case in England should be totally rejected unless used in its logical and proper context.

In other situations where use of the word rape is involved, the abortionist is on equally slippery ground.

The amended British Act specifically avoids use of the word. The reason may only be surmised, but one, perhaps, is that some women who find themselves with unwanted pregnancies may be well into the second or third month of pregnancy from the time that their alleged aggressor offended them and it would be terribly embarrassing for the government to admit that 500 abortions for rape had been performed and few or none of the offenders had been apprehended. Imagine the public horror and fright that would result from hospital and police reports stating that there are an estimated 300 or 400 rape artists walking the streets.

#### PUBLIC POLLS DEMAND ABORTION

Back in 1948 when Harry Truman was informed that he didn't stand a chance to be

elected as President of the United States because public opinion polls indicated that a large majority would vote for his Republican opponent, Mr. Truman remarked something to the effect that: "*Public polls be damned, you know what dogs do to poles.*"

Judging by the number of times that you hear this gem repeated, so-called opinion polls command no more respect today than they did 19 years ago.

A consensus of doctors, lawyers, tool and die makers, or the public depends largely on the way the question is put, the integrity of the poll takers, the number of people polled, their locale and prevailing attitudes that change almost as frequently as the wind.

If the question is simply put, as it was on a recent CBC abortion program, or as it was to some 40,000 American doctors (New York Times, April 30, 1967): How many favor more liberal abortion laws? the answer could vary from, say, 25 per cent as it appeared to be among the sit-in audience of the television program to 86.9 per cent of the 200,000 doctors who took the time to fill out their questionnaires.

Unquestionably this is a prejudiced question and as such one would naturally expect prejudiced results. If the writer of this brief were asked that question, he would be one of those to say "yes" for liberalized abortion in that he doesn't believe that a woman has to be literally in the jaws of death before the law should permit an abortion.

In the opinion of this writer, however, a far fairer question is: Do you favor making the abortion legal simply at the request of a pregnant woman? Of the 40,089 replies received, the New York Times reports that: "Only 14.3 (fourteen-point-three) per cent of the doctors said they would favor making abortion legal simply at the request of the pregnant woman." This latter figure is important and worth bearing in mind as some abortionists would permit termination of pregnancy on request.

Another question that could be asked of the 40,000 doctors sampled, the Canadian Medical Association, members of the Canadian Bar Association or the general public for that matter is: If you had the medical competence, would you willingly perform an abortion yourself as you would an appendectomy if you thought your patient might otherwise suffer mental anguish if not aborted or her child might be an epileptic at birth?

Do you favor Canada's terribly backward birth control laws that make it illegal to disseminate birth control literature and devices to women who insist they have the right to engage in sex but don't want to become pregnant?

Do you favor the deliberate killing of an unborn baby if the family income is \$12,000 a year but the mother doesn't want a second child?

The answers you get to all these questions and those put by the professional pollsters of course depend on the size of sample, the region, prevailing attitudes, accuracy of samples taken and more important how the question is put.

Answers too may be totally misleading or designed to misrepresent the purpose of the poll.

By editing the New York Times story to two simple lines without changing a word, we can draw many different conclusions, two of which are: 1. "Only 14.3 per cent of the doctors said they would favor making abortion legal..." 2. "... 62.7 per cent favored legalizing abortion." Harry Truman was right; polls and poles can serve several purposes and should be treated with about as much respect as a dog gives the latter.

#### ABORTION SHOULD BE THE DOCTOR'S DECISION

Some abortionists claim that only the doctor and patient should make the decision that will allow the foetus life or to condemn it to death. In other words every reference to "abortion" in the Criminal Code should be entirely dropped. This proposal cannot be accepted. The state has a duty and obligation to guard against criminal practices and mistakes arising from negligence. The reason is that doctors and hospitals are supposed to save life whenever possible—not destroy it because the physician is incompetent or not interested in the patient's welfare.

#### A CLOSER LOOK AT SOME OF THE ARGUMENTS

##### (Part 2)

Let us now examine the abortionist's views in greater detail.

With sincere respect, this brief contends that the large majority of abortionists fail to establish that the foetus is *non-human* and in

many instances refer to this life as "an unborn child, an unwanted baby, a child, a potential life" and so on.

Most of those who advocate abortion for a variety of reasons generally refer to the foetus as "it" or human. Any number of abortionists may be quoted on this score. Here are a few examples: Robert Coles, who supports the few American states that have broadened their abortion laws in the past year or two, writes, and in effect admits, in 'The New Republic', June 10, 1967, that what he advocates is wilful destruction of the human being by asking: "Who, then, is to be born?" (In the next sentence he answers that question.) "The answers range from everyone conceived to only *those children* desired by the mothers who have to bear *them* and later rear *them*."

An unsigned article in the 'Medical World News', February 24, 1967, puts most of its weight behind liberalizing the law to reduce the incidence of criminal abortion. This article too in effect admits that removal of the foetus is death to a human being. It quotes two physicians, one who claims that the incidence of abnormalities for women who contact rubella during their first trimester is 10 per cent to 30 per cent. Later in the same article another doctor is quoted as estimating that contact of German measles early in pregnancy results in serious birth defects in 50 per cent of "*children (who) are born.*"

#### COMMITTEE SYSTEM OF DETERMINING LIFE OR DEATH

Abortionists state that they would allow legal abortions for many more reasons than the present Criminal Code permits, yet few advocate abortion on request. This form of reasoning presents many awesome overtones. Abortion permitted in some cases, but not others, would give somebody, some group of doctors, some abortion committee, the right to say that one woman's unborn child will be aborted because it may be mentally or physically deformed, but another unborn may not be aborted because its chances of being a perfect asset to Canadian society are extremely good, though not guaranteed. The case that one human being has a right to life but the other does not, makes one sick to think that it could even be suggested. Who among us has the right to play some sort of god, either as an abortion committee or as individuals, particularly those of us who seek

an end to legal capital punishment for men and women who have been found guilty of murder?

### INCREASING OR DECREASING ILLEGAL ABORTIONS

Most abortionists and anti-abortionists have given the entire question little thought which makes one wonder if the law should be changed or kept just as it is because public sentiment may be running one way or the other at a given moment.

Among those who advocate a "liberalized" abortion law, many contend that it should be amended to reduce the mental and physical damage to desperate women who seek the services of an abortionist quack.

As mentioned before however, there appears to be much evidence that any law, short of permitting abortions on request, may tend to increase the number of illegal abortions performed in Canada rather than having the desired opposite effect of stamping out or significantly reducing a criminal practice.

Let us examine the unanimous opinion of a reputable group of British doctors.

The April 2, 1966 issue of the *British Medical Journal* in an article titled, 'Legalized Abortion: Report by the Council of the Royal College of Obstetricians and Gynaecologists' say: "One argument put forward in favor of legalizing abortion and of extending its indications is that the present practice, based essentially on Hippocratic principles, encourages criminal abortion with its attendant hazards..."

"... Those who plead for a widening of the indications for therapeutic abortion to include socio-economic as well as strictly medical conditions, contend that one of the effects would be to discourage criminal abortion. This was an argument which was used repeatedly in the past to justify legalization of abortion in certain countries in Scandinavia and in the Continent of Europe. Yet there is evidence to show that, except in those countries where abortion on demand and without enquiry is permissible, the legalization of abortion often resulted in no reduction and sometimes in a considerable increase in the number of illegal abortions: (6 Gebbard, P. H., Pomeroy, W. B., Martin, C. E., and Christenson, Cornelia V., Appendix to 'Pregnancy, Birth, and Abortion,' 1959.

Heineman, London). This is because those women who aim to be rid of an unwanted pregnancy are so concerned to preserve secrecy or to avoid delay that they continue to seek help from unorthodox sources. In the meantime, the legalization of abortion alters the climate of opinion among the public and even the Courts of Law.

"The result is that criminal abortion becomes less abhorrent, and those guilty of the offence receive punishments so light as not to discourage them and others in their activities. The total effect is that women are increasingly ready to have pregnancies terminated and potential criminal abortionists are less reluctant to help.

"The experience in Japan is illustrative of this situation. There, during the years immediately following legalization of abortion on socio-economic as well as medical grounds it is reckoned that when the number of legal abortions rose to one million per annum the number of illegal abortions *also* rose to one million per annum.

"In Hungary and Czechoslovakia, where abortion is induced freely, the number of abortions other than legal treated in hospital in 1961 was approximately the same as in the years before the introduction of abortion laws. (7 Tietz, D., in 'Human Fertility and Population Problems,' edited by R. O. Greep. Schenkman Publishing Co., Cambridge, Mass.)

"Already in this country, as a result of the recent debates in the House of Lords and of articles in the lay press, there is evidence that the public is becoming 'abortion-minded'."

### SOME DOCTORS "SHUDDER" WHEN THEY ABORT THE FETUS

That the fetus is "life" there is no doubt at all. But if this life has no more significance than a beef steer being led to the slaughter house, which is apparently the case in the People's Republic of Romania, why do some doctors and nurses feel so frightfully squeamish about deliberately terminating a pregnancy for reasons other than to save the life of the mother?

The 'Birmingham Post', on April 28, 1966, for example, exposes several interesting facets of the abortionist's thinking: An "eminent" Scots gynaecologist, Sir Dugald Baird, reported writer Wendy Cooper, "insisted that the new status of women in society means

that they will no longer fatalistically accept a succession of pregnancies. Mothers are now determined to have the number of children they want and feel capable of caring for."

If Dr. Baird had meant through widespread education and use of accepted contraception methods, he would receive a great deal of support. Unfortunately, he was referring to abortion as a means to exterminate "the unwanted."

Wendy Cooper then reported that the general agreement of the British Family Planning Association conference was that: "The true tragedy of the abortion problem lies in the fact that it would hardly exist at all if modern contraceptive techniques were more widely available. (Again proof that the great majority of doctors and laymen suspect that abortion is morally wrong.)"

Wendy Cooper's article has another interesting point to make: "On the other hand," her report states, "several surgeons emphasized the distaste in hospitals and operating theatre for the 'messy and unpleasant' process of abortion. This very real problem makes it all the more surprising that both 'The Lancet' and 'The British Medical Journal' have so far failed to publish a description of the vacuum aspiration method of abortion so widely and successfully used in Eastern Europe."

It seems that the 'Birmingham Post' writer personally believes that if professional surgeons and nurses do not have to see the dismembered or thrashing little arms and legs, the emotional impact of their deed for some unanswerable reason will be less serious than the act they have witnessed with their naked eyes.

Her report continues: "Miss D. M. Kerslake, consultant gynaecologist at a Newcastle-upon-Tyne hospital, described the method to the conference and showed the simple apparatus costing only £25. She emphasized that it had to be used in conjunction with standard hospital suction equipment."

"Miss Kerslake said: 'This method takes only one-tenth of the time of conventional surgery, reduces blood loss to a minimum and replaces the shudder that often goes around an operating theatre during the termination of pregnancy by healthy curiosity. I have used the method in 50 cases. There have been no complications, not even slight rise in temperature, and the patients have been fit to go home the next day.'"

In other words every Western hospital should have one. They cost no more than a year's supply of baby food.

Even though Dr. Kerslake has performed 50 abortions, and apparently thinks nothing of it, why is there a "shudder that often goes around an operating theatre during termination of pregnancy..."? Is it because the doctors and nurses responsible for termination see with their own eyes a tiny little person who, in a few months, could well have been the latest addition to the family living next door?

It is doubtful if an appendectomy or a curettage of the uterus, admittedly "messy" operations, would bring about the "shudder" which often occurs when a premature, helpless baby lies squirming on the table.

Why does the article and every other piece that supports abortion take pains to emphasize that modern contraceptive techniques are far preferable to abortion? "Suction tube" abortions have made abortion possible without even viewing the child to see if it had normal limbs or not.

Yet despite this no mess or fuss abortion machine Wendy Cooper's report states: "Recent directives from the Ministry of Health to local authorities urging them toward this end (contraceptive education) are encouraging, as are the startling figures reported at the (family planning) conference from Sydney, Australia. In that city 50 per cent of women of child-bearing age use the oral contraceptive pill, and there has been a striking drop in abortion figures at the two main hospitals from 452 cases in 1960 to only 138 in 1964."

Again, why are abortionists so concerned about reducing the number of abortions if an instrument as clinically efficient as the "vacuum aspiration method" can do the job at less than the cost of a year's supply of birth control pills?

Another writeup, this one in the August 11, 1965 issue of the 'Medical Tribune—World Wide Report' starts off this way: "NEW YORK—In the 'enlightened society' of 100 years from now, 'it will be possible for any woman to be legally aborted of any unwanted pregnancy,' the incoming president of The New York County Medical Society said here in his inaugural address." Later in the same article, the new president, Dr. Carl Goldmark, Jr., was quoted as saying: "I feel it not unreasonable to seek changes in the present penal code so that therapeutic abor-

tions may be performed in cases where a defective offspring is predictable."

The incoming president, it seems, has made several admissions in these few words which have horrifying implications. First, he speaks of "defective offspring", a self-admission that in his opinion people with mental and physical defects are only second class members of the human species. Secondly, he implies that he would breed races of pure and perfect people with no defects, and in no way a burden to society, if he were a benevolent dictator.

#### ANOTHER LOOK AT THE RAPE-ABORTION THEORY

"The Medical World News", April 15, 1966, reports that the overwhelming majority of California Medical Association (CMA) members want abortion laws brought into line with current medical practice.

At a CMA conference the large majority of physicians supported a "broadened law which would permit abortions to be legally performed if a woman's physical or mental health would be gravely damaged by continuing the pregnancy; when a woman is confined to prison or a state mental institution; when conception is the result of rape or incest, or has occurred in an unmarried girl under 16; or when there is "very substantial risk" that the baby will be seriously malformed."

A minority position according to the report was made by Dr. James C. Doyle, a Beverly Hills obstetrician: "These proposed laws blandly ignore, blindly deny, and stubbornly defy the legally recognized and constitutionally protected rights of an existing but unborn human life," Dr. Doyle asserted. In his view, it is not the proper function of a physician "to issue a death sentence to any human life, or to weigh the relative value of an existing but unborn life against the discomfort or distress of the mother."

Unfortunately the fallacy of the CMA proposal is that the majority of pregnant women who may wish an abortion may not qualify under the law change proposed here and therefore will be forced to procure an illegal abortionist's services.

The California Medical Association ("The Medical World News", April 15, 1966),

proposed rape as a grounds for abortion. The obvious question the members of this association did not answer is when they would abort and when they would not abort the fetus of a woman who screams "rape!" How long would the CMA allow a woman to wait before alleging forceful insertion of the male? A week, two weeks, a month or three months?

If this woman reports the assault to her doctor within five days, her uterus can be scraped clean, thus eliminating any possibility of impregnation and any need of a "messy" abortion. If she hasn't reported alleged violation within a day or two, there is little likelihood that she will complain until she has been pregnant for four, five or six weeks. Under this condition, as was suggested in this brief earlier, she should be admitted to hospital for several weeks for close observation, and if it is then determined that her life will be shattered by bearing the child, then perhaps, an abortion can be permitted. In rare cases of real probability of forceful incest, perhaps the same procedure should be followed.

In cases of rape or incest, the male aggressor on being proved guilty should be rehabilitated and be retained in such an institution where he will not again be capable of inflicting harm on society. It seems a tragedy that where the innocent human life has to be killed to save the life of its mother, at the same time the life of the rapist has to be protected.

In all cases where the victim of vicious rape or incest becomes pregnant, she should receive all the reasonable care, comfort and consideration that we as individual Canadians and Canadian institutions are capable of giving. After all, the Canadian environment plays a great role in shaping the individual and society plays a major part in making the environment. Society therefore is at least partly responsible for making one man a millionaire and another a rapist. As Canadians we may conclude that we are partly responsible for a grief-stricken woman's impregnation, and must as a result help that woman in every way possible through one of the most awful stages of her life.

## APPENDIX "U"

*This brief is being submitted to the Committee on Health and Welfare regarding the legalizing of abortion in Canada under the following headings:—*

1. Is the Fetus Human?
2. Not Entirely a Religious Belief.
3. Statistics and Guesswork.
4. Legalization and Reduction.
5. Legal Rights.
6. The Fetus is Alive and Human.
7. Rape and the Criminal Code.
8. Mental Health and Abortion.
9. Physical Health and Abortion.
10. Loopholes.
11. Abortion and Suicide.
12. Abortion a Contradiction.
13. Qualifications for Life.
14. To Place a Value on Life.
15. No Voice, no Vote!
16. Enforce the Law.
17. Abortion and Welfare.
18. Misguided Responsibility.

—by John Hackett.

## IS THE FOETUS HUMAN?

You are being asked to approve a change in the Criminal Code of Canada, not to overlook abortion but to give it the wholehearted approval of the law. The theory that the unborn child is not human until a certain stage of its development does not stand up in the light of scientific knowledge of the foetus. The sex is determined at the moment of conception as is the colour of the hair and eyes. Lack of a heartbeat indicates death in an adult human, yet the presence of a heartbeat in a foetus is rejected as proof of life. At 6½ weeks it has all the internal organs of the adult in various stages of development. Its sexual and reproductive organs have begun to sprout. At 8 weeks the permanent skeleton has begun to form, made of real bone. Now all the physical characteristics of a living human being are present. At 11 weeks it is inhaling and exhaling enough to send a salty fluid into and out of its lungs. Nerves and muscles are now synchronizing with the young bones so that the arms and legs can make their first movements. There is absolutely no doubt here, it is human. The medical text-book that sets a date on the humanity of the child other than conception does not exist. You hear it referred to as a blob of jelly by people who made their entrance into this world in exactly the same

stages described here. There, but for the Criminal Code, go they!

## NOT ENTIRELY A RELIGIOUS BELIEF

To ascribe the known medical facts to religious beliefs and thus reject them is to invalidate all scientific fact, both in genetics and obstetrics. One religion cannot be eliminated from this discussion because of their acceptance of positive knowledge. They cannot be disqualified from democracy because of a humanitarian belief that to keep one's life is a positive right. Canadian law is based on British law and as such can be traced back to its origin. The law against abortion was passed in England in 1803 by a parliament on which not one Catholic sat. Religious beliefs are not considered in this law but humanitarian beliefs are embraced within its phrases. It is not a religious precept but rather a democratic concept, designed not to obtain but *retain* life. Legalized abortion is selective slaughter! Abortion is a crime against humanity, a ruthless cold-blooded elimination of a human life already in existence. It must never be regarded as a form of birth-control, the one way to be sure.

## STATISTICS AND GUESSWORK

You are being subjected to many wild guesses regarding the number of illegal abortions in Canada, usually based on United States guesswork divided by 10. At the recent International Conference on Abortion in Washington the guesswork was referred to as "unmitigated nonsense" by statistical expert Dr. Christopher Tietze. He stated this was a method of stampeding the public into acceptance of a change in the law. Dominion of Canada Bureau of Vital Statistics for 1963 attributes 21 maternal deaths to illegal abortions for that year. If we had 300,000 illegal abortions then the illegal abortionist has a superior performance record and lower death-rate than the in-hospital specialist. The known and accurate figure of 21 deaths proves that the number of illegal abortions are very much less than claimed. The British Medical Journal states that legalized abortions induced by experts under modern conditions carries a mortality rate of 0.7 (Denmark) 0.7 per 1000. If the illegal abortionist achieved parity with the specialist we should have 210 deaths from 300,000 illegal abortions, not 21. There are probably less than 5000 illegal abortions in Canada per annum, allowing for the unskilled abortionists higher death-rate.

## LEGALIZATION AND REDUCTION

The claim is made that to legalize abortion will reduce the incidence of the illegal abortion. The British Medical Journal of April 2nd, 1966, states that legalization of abortion in the Scandinavian countries and Europe did not reduce the incidence but often resulted in a considerable increase. But to legalize it does alter the climate of opinion among the public and makes it more acceptable and the illegal abortionist is more readily condoned and receives an even lighter sentence than the current slap on the wrist. The British Medical Journal states "In Hungary and Czechoslovakia, where abortion is induced freely, the number of abortions other than legal treated in hospital in 1961 was approximately the same as in the years before the introduction of abortion laws." The Journal also says that the Japanese experience proves this, when the legal abortion was 1 million per annum the illegal was also 1 million per annum. The point is made that the public becomes "abortion-minded". In Japan 20% of the aborted women became pregnant again within 6 months and 50% within 12 to 18 months. In Sweden 38% of aborted women became pregnant again within two to four years and sought further abortion. In Czechoslovakia 50% of aborted women are seeking a second abortion and 12% a third within two years; these are often young unmarried girls. The Journal also points out the dangers of a legal abortion as opposed to carrying out the pregnancy to full term even for healthy women. Dr. E. F. Diamond, writing in the *Linacre Quarterly* for May 1967, makes the point that after abortions were legalized in Denmark in 1939 there was a tenfold increase in legal abortions within 10 years and a fourfold increase in illegal abortions within the same period.

## LEGAL RIGHTS

That the unborn child has legal rights has been upheld by the New Jersey Supreme Court and the Massachusetts Supreme Court in the United States. Above all, the right to keep one's life must never become an emotional issue subject to popular opinion. I bring to your attention the case in Liege, Belgium when a deformed infant was murdered as an act of mercy and at the subsequent trial public emotions supported the killing. Are we to take a first step in this direction? Society has legal, moral and medical obligations to the weakest member of the

human race, the unborn child. He is the unseen plaintiff being maneuvered into the position of the defendant whose only crime is that he exists. Consider the United Nations Declaration on the Rights of the Child:—"Whereas the child by reason of his physical and mental immaturity needs special safeguards and care including proper legal protection, *before* as well as after birth, the General Assembly calls upon parents and national governments to recognize these rights and strive for their observance by legislative and free measures." This is hardly religious dogma or creed. Also the Universal Declaration of Human Rights proclaimed by the United Nations states in Article 3:—"Everyone has the right to life, liberty and security of person." The present Parliament of Canada recently questioned the validity of the death penalty for guilty murderers who had a jury and defence counsel to safeguard their rights; how can you now consider the selective slaughter of unborn children who have committed no crime? Ask yourself, who has the greater right to his life—the unborn innocent child or the guilty murderer? What is justice?

## THE FETUS IS ALIVE AND HUMAN

If the unborn child is not a human being then you need not sit and deliberate as to which of them may live and which may be killed, a law to define the removal of an appendix does not exist either. The fact that a change in law is being considered to eliminate a fetus in certain cases is definite proof it is a human life, why else would it be illegal in certain cases? Even the child of the rapist is protected by law as a human being. "The hallmark of being alive consists in the ability to reproduce dying cells. That is what separates the mineral from the animal and the vegetable. The fetus has that ability without question. It is, therefore, alive. It has been a criterion of modern science that a species shall be recognized by its genetic make-up. If this be the criterion then the fetus is indeed human." (Andre E. Hellegers, M.D., Associate Professor of Obstetrics and Gynecology, Johns Hopkins University.)

## RAPE AND THE CRIMINAL CODE

The most emotional reason presented for legalized abortion is the one of rape victims becoming pregnant. Consider the impossibility of proving rape within the time period of 12 weeks, (which appears to be the time limit for abortions) if rape is not proven then the

abortion is disallowed. It appears that the nod of the woman's head would disallow rape and allow the child to live. Could the woman not change her mind after the abortion and admit it was not rape in order to free her boy-friend? What time limit would be imposed for the report of all rape cases resulting in pregnancy? Is it permissible to conceal the crime of rape unless pregnancy results from it? Is it then only a crime when pregnancy occurs? Why is abortion to be allowed in rape cases but not in others? Is it logical to state the child of rape is not human but the child of consent is? Is it possible to pick out the child of the rapist in a hospital nursery? One United States District Attorney demands enough evidence to obtain a conviction before he will concede a reason for abortion. Not one bill on behalf of abortion asks for the death-penalty for the rapist, who is the real criminal, the death penalty is reserved for the child—the most innocent of the three people involved. Two wrongs do not make a right! Furthermore no victim of rape need ever become pregnant! She need only comply with the most fundamental and reasonable requirement of reporting the crime to police and/or a doctor within 5 days. If she is unable to decide for herself the question of whether she was raped or not within 5 days I suggest she never was. I quote again Dr. Hellegers:— "It has always been permitted to empty a uterus when there is no implanted fetus in it. Even the ethical and religious directives of the Catholic Hospital Association of the United States and Canada do not demand that medical practitioners worry about the stage prior to implantation of the fertilized ovum. Curettage of the uterus, or its removal as an elective procedure, is tolerated in the second half of the menstrual cycle of the patient, when a fertilized ovum may be present. It is only when the zygote has implanted into the uterine wall and begins its differentiation into placenta and fetus that civil law and the rules of the Catholic Hospital Association of the United States and Canada take effect. This is important, since it tells us that it is perfectly legal under the civil law to curette a uterus within 5 days following fertilization, e.g. after rape, thus preventing implantation of the zygote. The practical question is whether it is reasonable for the raped woman to report the event to a physician within 5 days."

## MENTAL HEALTH AND ABORTION

The demand for abortion for reasons of physical and mental health both of the mother and child and her other children is asking for exactitude beyond comprehension from the most nebulous of professions, that of psychiatry. It is not an exact science and should never be utilized as a method of predicting the future of other children. It is of value when used to indicate reasons for past behaviour but to forecast the future well-being of people is akin to fortune-telling. Dr. Howard C. Taylor, Jr., director of Obstetrical and Gynecological Service, Columbia-Presbyterian Medical Centre, New York:— "I have not in my experience ever run across a suicide in pregnancy in a patient who was suffering from anxiety depression." Dr. Theodore Lidz, professor of psychiatry at the Yale University School of Medicine:— "Let us be frank about this. When the psychiatrist says that there is a suicidal risk, in many instances he does not mean that at all, but feels that there are strong socio-economic grounds for a therapeutic abortion." Abortion as a form of mental therapy can only be of a temporary nature, the underlying mental upset should be treated and the obvious method would be to ascertain the problems of a woman who wants to destroy the child within her. The British Medical Journal also states:— "*Those without specialist knowledge, and these include members of the medical profession, are influenced in adopting what they regard as a humanitarian attitude to the induction of abortion by a failure to appreciate what is involved. They tend to regard induction of abortion as a trivial operation free from risk. In fact, even to the expert working in the best conditions, the removal of an early pregnancy after dilating the cervix can be difficult and is not infrequently accompanied by serious complications. This is particularly true in the case of the woman pregnant for the first time.*" "For women who have a serious medical indication for termination of pregnancy, induction of abortion is extremely hazardous and its risks need to be weighed carefully against those involved in leaving the pregnancy undisturbed."

## PHYSICAL HEALTH AND ABORTION

To grant abortions on the theory that the child may be deformed either mentally or physically is a game of chance played by the person who advocates it, with the life of a human child at stake—never the life of the

person who suggests it. The odds against deformity in the case of rubella are 4 to 1. Some claim as high as 50% chance of deformity. However, the fact is that a vaccine for prevention of German measles is now available and this would eliminate any risk of deformity in the case of unborn children. I think we can also cross thalidomide off the list. To kill a child at those odds does not speak highly of the medical profession, who will often recommend an operation on an adult to save a life at far lower odds than 4 to 1. Is the doctor performing the operation willing to subject the aborted child to an examination by a pathologist to ascertain the accuracy of a blind guess which costs a life? This must be implicit in any law permitting Russian Roulette on unborn children!

### LOOPHOLES

Bill C-123 provides for abortion if the husband is reasonably available and his consent can be obtained. If he has been away working or is overseas or left home, in each case having been away over one year he would not be available and the woman would be allowed her abortion on those grounds. Do we condone such things? All single girls under 18 would qualify automatically for abortion, this would create further immorality and higher V.D. rates.

### ABORTION AND SUICIDE

Professor Shiden Inoue of Japan's Nanzan University suggests a possible "causal relationship" between abortion and suicide in Japan and Hungary. Japan and Sweden both have legalized abortion, Japan and Sweden also have the highest suicide rates in the world, this would seem to eliminate the theory of women committing suicide because they are refused an abortion.

### ABORTION A CONTRADICTION

Abortion is the brutal, senseless slaughter of an unborn child performed in a lifesaving hospital by a physician dedicated to the preservation of all human life. It is contradiction of terms and facts, it is opposed to all the tenets of freedom, liberty and democracy—an outrage against humanity. We talk of the dignity of man and then propose to scrape him in pieces from the womb. Abortion must be, and is, the last desperate step taken by the medical profession to save a life—one for one. We cannot accept maternal mayhem as

a cure-all for the many problems of humanity today.

### QUALIFICATIONS FOR LIFE

We cannot impose certain conditions on the right of the unborn child to keep his life, it must not be stated in law that if he does not reach certain standards of physical or mental health it is permissible to kill him. We cannot accept a Canadian Standards Association for the child in the womb. If a child is born with one arm and one eye is he not still a human being? When he is grown and independent is he not still a valuable member of society? One bill for abortion embraces the British bill, and would no doubt disallow life to the human being with one eye and one arm under the theory he would never be much good to society! They would receive a logical argument from one of their own men of history, who helped preserve their right to make such laws and who achieved his greatest victory while thus handicapped. Admiral Lord Nelson would surely never accept their standards. Let your conscience be your guide and do not be swayed by political expedience. To legalize abortion is to assert by law that under certain conditions a human fetus may be destroyed at a certain stage of development, a direction of our will against human life. The fetus exists, it is growing, it is alive! That it is human is undeniable when we consider the ultimate birth. We must reject the theory that unborn children are the "outsiders" of society, to be rejected or accepted by the "in-group" as human or subhuman.

### TO PLACE A VALUE ON LIFE

Once we accept the theory that human life can be taken away for any reason we consider proper we have placed a value on the priceless. Hitler did this with the Jews! If we accept this in principle we need only the passage of time to reach the position of placing a lower value on other stages of human life whether it be the aged, the infirm or the deformed person. Today we regard the handicapped members of society as brave people, human beings who make their own way in the world, yet we are being asked to legislate against the birth of any child who may be born as they are. If the retarded child has no right to be born what do we say to the retarded children who now exist? Are they lucky to be alive? We must feel sorrow that a child can be born with some deformity, but to express that sorrow with a law to eliminate his life is a poor expression of it. This

would end all medical research to aid the handicapped and retarded children.

### NO VOICE, NO VOTE!

The theory that abortion will not be forced on any one does not stand up when one considers that it is in every case of abortion forced on the unborn child. His opinion is never sought, he is never consulted. The answer, of course, is that he cannot hear or speak but this would also apply to a month-old baby, also an adult deaf-mute. Because of their inability to speak for themselves is it legitimate to kill all three?

### ENFORCE THE LAW

The attitude of the people favouring abortion seems to be one of defeatism. They say the law is being broken anyway why not legalize all infractions of it, then to back up their stand quote completely exaggerated figures for illegal abortions. Could not the same principle be used for removal of all our laws, that they are all out of date and should be eliminated? We do seem to skirt the obvious fact that rigid enforcement of the law can also produce effective results. How often is the maximum penalty of life imprisonment imposed on the illegal abortionist? A society that makes a criminal offence out of the misuse of a subway transfer and demands the death of an unborn child as a democratic right would appear to have a mistaken sense of values.

### ABORTION AND WELFARE

In August 1965 the New York Times alerted its readers nine days in advance that a message to "offset rapidly increasing welfare costs" or "how tax dollars might be saved" would be printed. In due course the ad appeared calling for support of Planned Parenthood. It stated that \$10 million a year was required in Cook County, Illinois to cover welfare cases from whose ranks society recruits: "Juvenile delinquents, dropouts, jobless and illegitimates." Whereas care of a child through age 17 would cost \$7,000; this problem could be avoided for the same period by \$250 worth of birth-control pills. Substitute the word abortion for pill and you have the next step! Change the law on abortion and you make that step easier to take! Proponents of abortion say the law would be permissive, so is the pill as yet but welfare recipients will certainly be "advised" to use

them. Would they not also be "advised" too of the benefits of an abortion once it became legal? People on welfare would hardly argue with the supplier of all their worldly needs! Abortion would seem to be the answer to many of the problems of the welfare state, which promises "security from the cradle to the grave" and allows abortion to then remove the possibility of any access to the cradle. England has a great housing shortage, this would appear to be one of the reasons for passing a law allowing abortions for social reasons. The welfare state cannot house its people, so permits (and no doubt will advise) the elimination of the cause of the housing shortage—new children! How the mighty have fallen!

We here in Canada are now faced with a housing shortage, while in the city of Toronto people who are unable to find homes are turning their children over to the Children's Aid Society. Do we contemplate the same solution here? It is being advocated by one newspaper that abortion for social reasons be allowed. Is legalized abortion to be accepted as a cheap shortcut? Thus eliminating the responsibility of society towards the poorer elements of it? Will we find abortion to be an inhuman substitute for social justice, proclaimed as something for the poor while saving taxes for all?

Must Canada follow in the steps of the "Motherland"? We adopted our own flag and talk of our own anthem, let us use our heads and not be deluded into thinking that what is good for them is good enough for us.

### MISGUIDED RESPONSIBILITY

Let us keep our laws without change in regard to abortion and not become inhuman in an effort to humane. Surely the Government of Canada can show its understanding and sympathy for those women desiring abortion by other means than simply abandoning its responsibility to the future generations of this country. Can we weep for Viet-Nam and condone the elimination of unborn children? To practice abortion and be critical of air-raids, to forgive condemned killers and refuse mercy to an unborn child—this can only be regarded as sheer hypocrisy.

I ask you, Ladies and Gentlemen, to please consider the points I have attempted to make in this brief.

Sincerely,  
John Hackett,  
3 Snowden Street,  
Downsview, Ontario.

APPENDIX "V"

BACK FLAP

This book, "The First Nine Months of Life" by Geraldine Lux Flanagan, carries the endorsement of Dr. George W. Corner, Director, Department of Embryology of the Carnegie Institution of Washington 1940-1956; Professor Emeritus of Embryology, Johns Hopkins University. Formerly Prof. of Anatomy, University of Rochester; Historian, Rockefeller Institute for Medical Research; Executive Officer, American Philosophical Society.

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PORTRAIT AT FORTY DAYS

Forty days after the mother and father have come together to create a child, the child will look just like the embryo baby in this photograph. Barely six weeks after its first beginning, the embryo has a well-formed body. It has a heart that has been beating for two weeks. It has a brain. It is already possible to know if this embryo is a boy or girl.

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THE FIRST DAY

In the first half hour an immeasurable number of traits of the new baby are decided within the pin-point egg. These include the features of the human species and also the individual trademarks such as male or female sex; the colour of eyes, hair and skin; the configuration of face and body; the tendency to be tall or short, fat or lean. Each new baby is a unique individual, never entirely like either parent or any ancestor.

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THE FIRST WEEK

On microscopic examination, the human cells differ from the cells of other animals in small details. From their first hour the cells are distinctly human.

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THE THIRD WEEK

The heart begins to beat, the brain has two lobes; the early spinal cord is bordered by the future vertebrae and muscle segments.

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THE FOURTH WEEK

The baby is almost a quarter of an inch long. It has head, trunk and arm-buds.

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By the end of the first month a whole embryo is formed. One can hardly see the fine detail of its structure. But the body has a head with rudimentary eyes, ears, mouth and a brain that already shows human specialization. There are simple kidneys, a liver, a digestive tract, a primitive umbilical cord, a blood stream and a heart.

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The month old embryo is ten thousand times larger than the fertilized egg was. In four more weeks, by the end of the second month, it will look quite like a tiny baby.

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THE SECOND MONTH

In the seventh week the embryo is completed.

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Motion pictures show the earliest movements. The new body not only exists, it works. The brain, in configuration already like the adult brain, sends out impulses that co-ordinate the functioning of the other organs. The heart beats sturdily. The stomach produces some digestive juices. The liver manufactures blood cells and the kidneys extract some uric acid from the blood. Until adulthood, when full growth is reached between the years of twenty-five and twenty-seven, the changes in the body will be mainly in dimension and in the gradual refinement of the working parts.

Page 48

The appearance of the first bone cells marks the end of the embryonic period. This criterion has been chosen by embryologists because the beginning bone formation coincides with the essential completion of the body. (Days 46-48) As the embryo (from the Greek, to swell) becomes a fetus (from the Latin, young one) near the close of the second month, it can well be called a baby. He or she is now a little person.

Page 50

THE THIRD MONTH

He can now swallow. He may even breathe.

## Page 52

The embryologist Davenport Hooker, with associates at the University of Pittsburgh, compiled thousands of feet of motion picture film over a period of thirty years. All the photographs in this book that show the movements of the baby are taken from these films.

## Page 57

The vocal cords are now completed. In the absence of air they cannot produce sound; the baby cannot cry aloud until birth, although he is capable of crying before. The three month old baby can now urinate.

## Page 58

## THE FOURTH MONTH

In this month he reaches half the height he will have at birth.

## Page 62

His whole body functions as a closed system. He has his own blood circulation, pumped by his heart, which at four months pumps the equivalent of 25 quarts a day.

## Page 63

Mother and baby have separate blood. The mother's blood stream never directly enters the umbilical cord, but what he receives through the cord is entirely determined by his mother's resources. She takes care of her baby by taking care of herself. He can receive only as much food, as much vitamins, calcium and other essentials she has to share.

## Page 66

## THE FIFTH AND SIXTH MONTHS

He is now a foot long and weighs one pound.

## Page 68

At the beginning of the sixth month he can cry, make a fist and suck.

## Page 69

The baby now gets the hiccups on occasion. These can last 15 minutes to half an hour.

## Page 70

The youngest babies known to have survived birth were between twenty-three and twenty-five weeks old and weighed about one pound.

## APPENDIX "W"

The CANADIAN COMMITTEE  
on the STATUS of WOMEN

November 1967

Mr. Harry C. Harley, Chairman,  
Standing Committee on Health and Welfare,  
House of Commons, OTTAWA.

Dear Sir,

The Canadian Committee on the Status of Women is pleased to respond to the invitation of the Committee on Health and Welfare to submit its views on the subject of abortion.

Our committee believes that abortion should be at the mother's request, or with the guardian's consent in the case of an unmarried mother under sixteen years of age; that two doctors should assist the mother in her decision; and that any lesser change favors the well-to-do, and support the criminal trade of unqualified abortionists.

From the United Kingdom, Canada inherited the current law on abortion one hundred years ago. The United Kingdom has now passed a Bill on abortion. It has the virtue of having awakened the Canadian conscience and stimulated an awareness of our own need for a radical change in the law. We approve all the clauses in the United Kingdom 1967 Bill on Abortion, including the so-called "social clause". We think this legislation is a move forward, but does not take reform far enough.

Edmund Burke said "The only way evil can triumph is for good men to do nothing." We hope the Committee on Health and Welfare will recommend abortion laws liberal enough to eliminate the evils connected with illegal abortion, rather than merely alleviating some.

The Canadian Committee on the Status of Women has been greatly concerned that Canadian Law makes it possible for illegal abortionists to ply a criminal and lucrative trade, at the expense of human suffering and life. We would hope that liberal abortion laws would make their criminal services unnecessary and repugnant to women.

The Committee has also been concerned with the expanding use of drugs among the young, and the possibility of birth mutations, in the future, comparable to those found in the thalidomide babies. Enlightened legisla-

tion should encompass this possibility, should it arise.

As for the suitability of a termination board as proposed by the Canadian Bar Association, the proposed board immediately suggests time consuming hearings. Delay for any reason may result in missing the optimum time for an abortion, and will frequently result in resort to the services of unqualified abortionists. A large board composed of doctor, lawyers, and social workers would be cumbersome and unworkable. The opinions of lawyers in this kind of situation seem only an intrusion. Moreover, however helpful a social worker might be, a requirement to have one or more on a board would restrict the setting up of a board to areas where social workers were available. To subject a mother to an enquiry conducted by a judicial board would be degrading and offensive to her.

In lieu of the proposed board, we suggest that the medical advice of two physicians would be sufficient. We cannot overemphasize the importance of the doctor-patient relationship, in the making of such a personal decision, where information should be confidential. We feel this is a matter which should not concern the judiciary nor the sociologists, but the person as an individual in her own set of circumstances. The simplicity of this

procedure should have the beneficial effect of minimizing emotional traumas, and making unnecessary the desperate last resort to the illegitimate abortionist.

We appreciate the Committee's obligation to weigh many viewpoints before making its report to Parliament. However, it is of prime importance to acknowledge the right of the mother, married or unmarried, to make the decision as to abortion, guided only by two physicians. Society need not agree with her reasons.

The Royal Commission on the Status of Women has been established specifically to recommend changes in the law that will recognize the rights to which women are entitled. Women feel it is the right of the mother to make the decision whether to bear a child at a given time. We hope that the recommendations of the Committee on Health and Welfare will recognize the enlightened concept of the place of women in modern society.

Yours truly,

Mrs. W. H. Gilleland,  
Chairman.

Mrs. R. S. W. Campbell,  
Secretary.  
55 Leacroft Cres.,  
Don Mills, Ontario.

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OFFICIAL REPORT OF MINUTES  
OF  
PROCEEDINGS AND EVIDENCE

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Translated by the General Bureau for Trans-  
lation, Secretary of State.

ALISTAIR FRASER,  
*The Clerk of the House.*

HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1967

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STANDING COMMITTEE  
ON  
**HEALTH AND WELFARE**  
*Chairman:* Mr. HARRY C. HARLEY

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MINUTES OF PROCEEDINGS AND EVIDENCE

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UNIVERSITY OF TORONTO

TUESDAY, DECEMBER 5, 1967

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Respecting the subject-matter of

Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

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WITNESSES:

*Representing the Board of Evangelism and Social Action of the Presbyterian Church in Canada:* Rev. Wayne A. Smith, Assistant Secretary, also Secretary of the Committee on Family Life; Rev. Arthur J. Gowland, Secretary, both of Don Mills, Ont.; Rev. Frederick H. Cromey, Minister of St. Andrew's Presbyterian Church, and Convener of the Committee on Family Life, of Markham, Ont.; and Mrs. Margaret Herrig of Clarkson, Ont., Executive Director of "Armagh".

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1967

STANDING COMMITTEE ON HEALTH AND WELFARE

Chairman: Mr. Harry C. Harley

Vice-Chairman: Mr. Gaston Isabelle

and

Mr. Allmand	Mr. Forrestall,	Mr. Orange,
Mr. Ballard,	Mr. Howe (Welling-	Mrs. Rideout,
Mr. Brand,	ton-Huron),	Mr. Rochon,
Mr. Brown,	Mr. Knowles,	Mr. Rock,
Mr. Cameron ( <i>High</i>	Mr. Laverdière,	Mr. Rynard,
<i>Park</i> ),	Mr. MacDonald ( <i>Prince</i> ),	Mr. Simard,
Mr. Chatterton,	Mrs. MacInnis ( <i>Vancou-</i>	Mr. Stanbury—(24).
Mr. Cowan,	<i>ver-Kingsway</i> ),	
Mr. Enns,	Mr. Matte,	

(Quorum 13)

Gabrielle Savard,  
Clerk of the Committee.

NOTE: Mr. Laverdière replaced Mr. O'Keefe on December 4.

ORDER OF REFERENCE

MONDAY, December 4, 1967.

*Ordered*,—That the name of Mr. Laverdière be substituted for that of Mr. O'Keefe on the Standing Committee on Health and Welfare.

Attest.

ALISTAIR FRASER,  
*The Clerk of the House of Commons.*



## MINUTES OF PROCEEDINGS

TUESDAY, December 5, 1967.

(13)

The Standing Committee on Health and Welfare met this day at 11:15 o'clock a.m., the Chairman, Mr. Harry C. Harley, presided.

*Members present:* Mrs. MacInnis, Mrs. Rideout, and Messrs. Allmand, Brand, Chatterton, Cowan, Forrestall, Harley, Howe (*Wellington-Huron*), Isabelle, Knowles, Laverdière, MacDonald (*Prince*), Matte, Rock, Rynard—(16).

*In attendance: Representing the Board of Evangelism and Social Action of the Presbyterian Church in Canada:* Rev. Wayne A. Smith, Assistant Secretary, also Secretary of the Committee on Family Life; Rev. Arthur J. Gowland, Secretary, both of Don Mills, Ont.; Rev. Frederick H. Cromey, Minister of St. Andrew's Presbyterian Church, and Convener of the Committee on Family Life, of Markham, Ont.; and Mrs. Margaret Herrig of Clarkson, Ont., Executive Director of "Armagh", a home for unwed mothers.

The Committee agreed that it hold a meeting *in camera*, and that the date and time be set up at a later date.

The Chairman introduced Reverend Smith who, in turn, introduced the other delegates of the Board.

Rev. Smith commented on the highlights of the brief and was questioned thereon; he was assisted by Rev. Gowland, Rev. Cromey and Mrs. Herrig.

*Agreed,—*That the brief of the Executive of the Board of Evangelism and Social Action of The Presbyterian Church in Canada be printed as an appendix to this day's proceedings. (*See Appendix "X"*)

On behalf of the Committee, the Chairman thanked the representatives of the Board of Evangelism and Social Action of the Presbyterian Church in Canada and at 1.00 o'clock p.m., the Committee adjourned to 9.30 a.m. Friday, December 8, to receive the submission of the National Council of Women of Canada.

Gabrielle Savard,  
*Clerk of the Committee.*



## EVIDENCE

*(Recorded by Electronic Apparatus)*

**Tuesday, December 5, 1967.**

**The Chairman:** Ladies and gentlemen, we will start our meeting.

Before introducing today's witnesses may I say that you have received in the mail a copy of the proposed schedule of meetings. There has been some discussion of our schedule by various members of the Committee. You will note from the proposed schedule that we have a free day on Tuesday, December 19. It has been suggested that it might be very useful for the members of the Committee to have a full Committee Meeting in camera on that date to discuss quite frankly and openly, the evidence to date, what further evidence is required, and whether we should be looking further afield.

**Mrs. Rideout:** Mr. Chairman, what if we adjourn before that date?

**The Chairman:** I am assuming that we will adjourn, as usual, about December 21 or 22.

**Mrs. Rideout:** No, but Gordon Churchill and I are negotiating.

**The Chairman:** Provided of course that the House is sitting.

**Mr. MacDonald (Prince):** As some members of the Committee may find themselves in places other than here, could we not meet a week earlier?

**The Chairman:** The problem with your suggestion is that we do not have a free date prior to that time unless the Committee wants to meet at 1:00 p.m. on another day.

**Mr. MacDonald (Prince):** Let us do that. The Churchill-Rideout Committee may be successful...

**The Chairman:** I beg your pardon, Mr. Knowles.

**Mr. Knowles:** Some of us are on Committees that have too many new meetings already.

**The Chairman:** Right.

**Mr. Knowles:** Mrs. Rideout might win but Mr. Churchill cannot.

**Mrs. MacInnis (Vancouver-Kingsway):** Could we let it stand for a little while Mr. Chairman?

**The Chairman:** I just throw this out as a suggestion. It will depend on the activities in the House and whether or not it is sitting. I should point out that our first meeting in the new year is set for January 11. It is conceivable we may not be back by that time so this is merely a proposal.

**Mr. Knowles:** That is a better guess than the guess that we will not be here on the 19th.

**The Chairman:** Right.

**Mr. Knowles:** But we have agreed to hold the meeting.

**The Chairman:** Yes. Does everyone agree that the meeting shall be held in camera but the date and time will be set at a later date at the convenience of the members?

**Some hon. Members:** Agreed.

**The Chairman:** Agreed. We have with us this morning representatives of the Board of Evangelism and Social Action of the Presbyterian Church in Canada. I will call on the Reverend Wayne Smith, who is the assistant secretary of the Board, to introduce the members of the association who are with him today. Reverend Mr. Smith?

**Reverend Wayne A. Smith (Assistant Secretary of the Board of Evangelism and Social Action, and Secretary of the Committee on Family Life, Don Mills, Ontario):** Mr. Chairman and honourable members, it is with a great deal of pleasure that we have come at your invitation to present our brief today. Starting at the Chairman's extreme right, may I introduce Mrs. Margaret Herrig of Clarkson, Ontario, who is Executive Director of Armagh, a home for unwed mothers. She is substituting today for two lady delegates, Miss Judy Young and Mrs. L. Pearsall, who were previously

named as attending but who convey their regrets for not being here today, one because of illness and the other because of fog. Next to Mrs. Herrig is the Reverend Frederick Crome, Chairman of the Family Life Committee of the Presbyterian Church in Canada and the Minister of St. Andrew's Presbyterian Church in Markham. Next is the Reverend Arthur J. Gowland, General Secretary of the Board of Evangelism and Social Action of the Presbyterian Church in Canada. Mr. Crome is chairman of the committee that has been largely responsible for this submission. Mr. Gowland prepared the resolution that was presented to the General Assembly of our church in June and which appears in the text of the brief that is before you.

Our purpose is to lay this resolution before you that was passed by the 93rd General Assembly of the Presbyterian Church in Canada when it met in June of this year. That resolution appears on pages one and two of the brief that is in your hands. We then wish to offer comments on the resolution. These comments are not offered because we think we can accurately reflect the thinking of all Presbyterians across Canada but because our Committee has had a hand in the preparation and discussion that centred around this resolution. We think that in any event we will be able to reflect something of the philosophy behind it.

We would like to present about six points of emphasis, Mr. Chairman, arising from this brief. Perhaps it would be in accordance with your procedure if I dealt with each of these highlights in turn and then offered an opportunity for comment right at that time. Would that be an acceptable way of proceeding?

**The Chairman:** If you wish.

**Rev. Mr. Smith:** The first matter I would like to deal with is the moral issue involved in this whole question of abortion and whether this is indeed an issue concerning the Criminal Code.

Secondly, I would like to talk about ways of understanding and interpreting the word "life", which has become so prominent in discussions on this whole issue of abortion.

Thirdly, I would like to state our position with regard to the responsibility which we feel society has toward doctors, in order to give them proper guidelines and proper protection in law.

Fourthly, I would like to deal with matters of rape and incest and the danger of deform-

ity to the unborn. I will ask Mr. Gowland on my right to speak briefly on these matters when they are reached.

Fifthly, as Mrs. Herrig is present, and this is something we are pleased about although we did not know it until very recently, if there is an opportunity I would like her, from the point of view of the executive director of a home for unwed mothers, to speak about the whole question of abortion for unmarried girls.

Sixthly we would like to refer to the three private members' bills which are before your Committee and deal with the whole matter of consultation.

With regard to the first point, we declare that this is a moral issue. This is set forth in the resolution adopted by our General Assembly in June of this year and it appears in the text of the brief commencing near the bottom of page one. It has about four "whereases" and it concludes this way:

THEREFORE be it resolved that the General Assembly ask Parliament to amend the law with regard to abortion to make therapeutic abortion lawful, when the continuance of a pregnancy endangers the mother's life or is likely seriously to impair her physical or mental health,...

The word "and" should probably be in there:

(and) when authorized by a panel of qualified medical authorities.

The first "Whereas" in this resolution reads:

...an abortion involved a decision fraught with serious moral and spiritual implications;

In our church we almost regard this as axiomatic, although we know it is widely debated. There are those who say that this is not really a moral and spiritual issue, it is a matter of medication and health, period. But because life really is involved we declare that this is a matter of spiritual and moral dimensions. Furthermore, we feel there is a reason that this matter of abortion should be dealt with under the Criminal Code. This is so despite the fact that a woman is involved in a very, very intimate way indeed. I would like to point out some of our thinking on this matter and it appears on pages five and six of the brief that is before you. Near the bottom of page five there is this heading:

Should the Law be Regarded as a  
Device for Enforcing Christian Standards  
of Morality?

I am very much aware that as church representatives this could well present a real problem to us. We come here as representatives of the church. Are we to say to the state that they have the responsibility of protecting our faith or of proclaiming our faith for us? We say no. I would, however, like to read these paragraphs:

There are some who claim that issues involving private morality ought not to be dealt with in a Criminal Code or for that matter in any legislation. Abortion is held by some people to be such a matter of private morality.

The Church cannot expect the law-makers to defend her faith, but we believe that the Church and the State have mutual responsibilities. Our "Declaration of Faith Concerning Church and Nation"

Which was adopted, sir, by our general assembly and by our church in the year 1955, and in our understanding it stands as a significant document with regard to this whole relationship between church and state. It says, *inter alia*:

"As her Lord may lay it upon her, she (the Church) declares and commits herself to His will..."

That is to say, to the will of Christ:  
by public proclamations of her courts or agents.

In other words, Presbyterians really feel there is a contribution which the church can make to the deliberations of government and to the deliberations of state: It has no right to dictate and no right to coerce or force, but there is the responsibility of proclamation.

• (11:30 a.m.)

It then goes on:

"(Christ) ordained the State to serve Him in the administration of His justice and benevolence, by discerning, formulating, and enforcing, such laws and policies as will promote the well-being of all its citizens and curb license, discord and destitution.

We therefore believe that as the Church has responsibilities under God so also has the State. These responsibilities are defined in this sentence:

In the context of this high responsibility we believe it is necessary that the law of the land treat of matters that are of moral, not to say sectarian, concern. The law must, in the words of a recent writer, chart "a just and prudent course for the whole of society". The subject of abortion must be treated in this kind of way.

We are therefore convinced that abortion is indeed a matter for the Criminal Code.

We are saying here, sir, that we feel the Criminal Code has an appropriateness about it in this matter of abortion. If it is a vehicle for "charting a just and prudent course for the whole of society" then it should be invoked in this kind of a moral situation. Our reason for saying these things stems from our concern that abortion should not become a commonplace; that it should not become a rule but rather an exception and that it should not become widespread. We try to deal with this subject on pages two and three of the brief that is before you.

I would now like to talk about some possibly fresh interpretations of the word "life" because I am sure from a moral and spiritual standpoint on the subject of abortion, this is the word that is the pivot to the whole discussion. However, I wonder if at this point it would be useful to have any comments or questions?

**The Chairman:** Does any member of the Committee have any comment?

**Mr. Knowles:** Mr. Chairman, I have just one question. Starting with your premise that the state has a responsibility to legislate on this matter, do you think that the Criminal Code is the only area of our law in which that legislation might be written? I have the feeling that the very name of the Criminal Code injects something into this discussion that may go a little further than you want. Let me repeat: supposing we are prepared to go with you that we should legislate on this matter. Might we not legislate under some heading other than Criminal Code—even under a special act, as we are doing for divorce?

**Rev. Mr. Smith:** Or another possible special act to replace the juvenile delinquency act and so on.

**Mr. Knowles:** Is it unfair to suggest that that is a modification you personally might be willing to make—that we should legislate but not necessarily under the Criminal Code?

**Rev. Mr. Smith:** This is a modification I personally would be willing to make.

**Mr. Chatterton:** Mr. Chairman, the Reverend Mr. Smith on page one of his resolution, says:

Whereas it is morally indefensible to legalize abortion in order to reduce the number of illegal abortions...

Do I take it that no action that may be taken that would eliminate illegal abortions can be justified?

**Reverend Arthur J. Gowland (General Secretary of the Board of Evangelism and Social Action, Presbyterian Church in Canada):** This is what we had in mind. There has been pressure to widen the grounds for abortion because there is a large number of illegal abortion. We feel that in view of the sacredness of human life, this cannot be a ground for changing the Criminal Code. But we hope that it would result in a reduction of illegal abortions. But, if you go on there, you will see that the reason that we make that statement is that we feel that this is the wrong method of reducing the number of illegal abortions. What we need to do is to introduce conception control. This is the place where we need to take the action; not in opening things so wide just because of the number of illegal abortions.

**Mr. Chatterton:** Maybe I am putting you on the spot because my question is hypothetical. But let us say that this Committee, in its wisdom, decides that the only way that illegal abortions can be reduced or eliminated is by legalizing abortion.

**Rev. Mr. Gowland:** We are in agreement with the legalizing of therapeutic abortion within certain limits.

**Mrs. MacInnis (Vancouver-Kingsway):** I have a question with regard to the legislation. Obviously, when we are living in a pluralistic society, it is pretty difficult to chart a just and prudent course for the whole of society. Would you be in favour of trying to aim at a kind of legislation on this subject which would be acceptable to a majority of people in this country, making it permissive for those who want to use it to do so, and for the others not to have to, and

thus not allowing a group to hold back a majority synthesis? I do not know whether I am explaining myself clearly. Should we be aiming at about that level of thinking that is acceptable to the majority, and then not forcing it on anyone, thereby not forcing other people not to progress? Is that what we should be trying to do legislatively?

**Rev. Mr. Smith:** Mr. Chairman, my response is this: that by and large, private morality should be left to private individuals. Mr. Gowland referred to the distinctions that I think we can make between abortion and conception control. It seems to me that conception control really is a matter of private judgment and morality between a couple but that abortion is in a different dimension—life is involved. And life is not just the responsibility of the mother who is carrying this child. I think this is why our church feels that the state really does have the responsibility of drawing the lines.

**Rev. Mr. Gowland:** We might add this: that there are areas where the state feels it has to act. With regard to theft, there are certain moral distinctions and we feel that abortion comes in this category; that it is just not a case of what everyone thinks; that there is an element of right and wrong here. I do not think that the state can repudiate its responsibility for recognizing that there is an area of right and wrong.

**Mrs. MacInnis (Vancouver-Kingsway):** An area which cannot be left purely to the judgment...

**Rev. Mr. Smith:** Of an individual? That is correct.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes.

**The Chairman:** Are there any other questions at this point?

**Mr. Howe (Wellington-Huron):** I would like to ask the witness why we have illegal abortions.

**Rev. Mr. Smith:** Why we have illegal abortions?

**Mr. Howe (Wellington-Huron):** Illegal abortions.

**Rev. Mr. Smith:** Well, I imagine the reasons why we have them vary with the circumstances in which women find themselves. I would expect that there are a number of unmarried women, who, because of their

chagrin, think that this is the way to solve their problem and, therefore, they resort to this kind of thing feeling that they will not be discovered. I think it is also the case—statisticians claim that this is the case anyway—that most of the people who seek abortions are married women and it is because of factors either in their own lives or in the family that they seek this kind of way out.

**Mr. Howe (Wellington-Huron):** And how would you suggest that we control this illegal abortion?

**Rev. Mr. Smith:** I do not know how one enforces the law. We think that if this is the only argument for broadening the law on abortion, it is not the right argument. We think that to legalize something just because it is going on would be a recourse to the wrong kind of expediency.

**Mr. Howe (Wellington-Huron):** This is the very point on which I think this Committee is seeking information and ways and means to combat this nefarious practice. I think we are all looking for suggestions whether the law should be made more severe or whether there should be more social services or agencies available to people who are disturbed and in trouble that they can go to without people knowing about their problems. How do we get at this problem?

**Mrs. M. Herrig (Executive Director of "Armagh"):** If I may say something. Right now they do not have any place to go to. This is all done underhandedly. As I understand your concern, it is to make it legal, to make it possible for certain cases to go and avail themselves of help in the proper way. All these illegal abortions that we have had have created a lot of hardship. I have talked to my girls quite frequently and they all tell me that in their first shock—in their first anxiety—they have all thought about abortion. But when you watch them as they go towards the end of their pregnancies and finally have their babies. The change that takes place in these girls is tremendous and they will always afterwards say: "Well, I am glad I did not do it". This leads me to think that people who will do it in the first effect who will go for an abortion would regret it afterwards if they knew better. Therefore these people need places where they will be advised properly by the proper people set up as a committee that will discuss everything and help them in such a way that they will not do something that is not the right thing to do.

• (11:40 a.m.)

**Mr. Howe (Wellington-Huron):** This is true but how do you advise a disturbed person who does not realize or appreciate the fact, that there are agencies of this kind.

**Mrs. Herrig:** Well right now we do not have such places do we?

**Mr. Howe (Wellington-Huron):** There are certain social organizations that will give advice at the present time but are there enough of them?

**Mrs. Herrig:** Not enough; maybe that is the better expression, not enough. And I think they should be better advertised. They should really know where they can go. Every so often one hears, "Well we did not know where to turn".

**Mr. Howe (Wellington-Huron):** Do you feel that the law should be strengthened to take into account these illegal abortions and to take care of or to punish the people who have consummated these types of things?

**Mrs. Herrig:** No, I do not think punishing would be the right thing.

**Mr. Howe (Wellington-Huron):** Those that practise this type of thing?

**Mrs. Herrig:** Oh yes, those that practise it but we should give them the possibility of practising it legally, if the need is established.

**Mr. Howe (Wellington-Huron):** Well, is not one of the problems that a lot of people who do it could not get any legal right to do it?

**Rev. Mr. Gowland:** Well of course if what our brief suggests was implemented then these people could go to doctors and the problem could be discussed by a panel of qualified medical experts and they could get this help. If the panel of medical experts felt this could not be carried out then they could give advice to the party concerned. We feel it is very important that it be made legal and that doctors within this category will feel they are within the law when they do it that it is not something that is just unlawful, not unlawful. We feel this could be one of the answers.

**Mr. Howe (Wellington-Huron):** Well, of course this is the whole thing that disturbs me. The persons who are involved here are disturbed persons and they just are afraid of

their parents or afraid of their parents finding out, or society finding out. How do we get at these people so they will not go to the nearest person that they are told about subversively or in some way like that in order to direct and control this type of illegal operation that goes on?

**Rev. Mr. Smith:** Mr. Chairman may I respond to this part of Mr. Howe's question? It arises out of something which occurred a few weeks ago when various representatives from Christian churches, Roman Catholic and Protestant, met with the Minister of Justice with regard to the draft bill on divorce which was then being discussed out of Senator Roebuck and Mr. Cameron's Committee. We were trying to make two points on that occasion. The first was the validity of the concept of marriage breakdown as distinct from marital offence. The second point was the need we feel that the government should share more and more in the responsibility of nurture, of education and of counselling that ought to go on in society at many, many levels. What we were concerned about was that the draft bill we had seen seemed to us to write pretty good legislation with regard to declaring marriages terminated but did nothing that we could discover to strengthen the bonds of marriage or family life even though to some this seemed to be within the terms of reference of that particular joint parliamentary committee.

The concern that we were bringing forth that day was that the government is able to provide grants in aid of many, many, very worthy and necessary projects, but does, perhaps, very little in terms of aiding those agencies, whether they are church-oriented or community-oriented that are involved in the business of marriage and family counselling; marriage and family education; and the preparation of people for marriage. In other words we are talking about education and I am simply submitting that perhaps the government has a responsibility in this area, at least to assist those agencies that are now engaged in this kind of endeavour and to assist in every way possible more and more people being recruited for this kind of social work or work within the churches, and so on.

**Mr. Howe (Wellington-Huron):** You mentioned education; do you think something should be done about it in our schools?

**Rev. Mr. Smith:** Yes, sir.

**Mr. Howe (Wellington-Huron):** In what way would the schools do this? Would it be through each teacher in her classroom or would there be specialists or people that are knowledgeable in this field brought in occasionally to instruct or what?

**Rev. Mr. Smith:** It would seem that both kinds are being undertaken at places in Canada according to a very significant report that is to be published, I think within the next couple of months, authored by Mr. H. H. Guest of Winnipeg in which he gives a pretty good survey of the kind of family life and sex education courses that are presently being undertaken in the various provincial jurisdictions across the country. He notices that in the last couple of years there has been quite a breakthrough in this whole business. In some jurisdictions competent folk are brought in, and in other jurisdictions teachers are being specially trained for this type of thing. Now here of course we are talking about the whole gamut of family life and sex education.

**Mr. Howe (Wellington-Huron):** And you feel that this type of program would get at this problem and help to curb illegal abortions that this Committee is so worried about?

**Rev. Mr. Smith:** One would hope that this would be an indirect result. I do not think education would solve all things because of the nature of our humanity, maybe. But in any event it could do nothing else but help, I would think.

**Mr. Howe (Wellington-Huron):** Thank you.

**Mrs. MacInnis (Vancouver-Kingsway):** I would like to raise a little point of procedure. I think we could get on better perhaps if we knew what the proposals of this delegation were before we had any more discussion because it is a bit vague. Am I wrong?

**The Chairman:** No, your microphone is not...

**Mrs. MacInnis (Vancouver-Kingsway):** Well I was just suggesting that before we get any further if we had the proposals of this brief laid before us we would be in a better position to carry on a discussion. I do not know.

**The Chairman:** I was of the impression that he had actually read the recommendations on page 2.

**Mrs. MacInnis (Vancouver-Kingsway):** No, but I mean the whole of the proposal.

**The Chairman:** They are summarized.

**Rev. Mr. Smith:** Mr. Chairman, perhaps I ought to describe things this way; what you see on page 2 is pretty well the nub of the proposal. What you get thereafter is interpretative material.

I think it would be worthwhile sir, if you do not mind, if we read the whole of this resolution that was adopted by our General Assembly in June beginning on page 1 because it all stands together. I would like to say orally that what appears on page 1 in written form is an official statement now by the Presbyterian Church in Canada.

• (11:50 a.m.)

WHEREAS an abortion involves a decision fraught with serious moral and spiritual implications.

WHEREAS it is morally indefensible to legalize abortion in order to reduce the number of illegal abortions, or as a method of population control, and

WHEREAS notwithstanding the foregoing we believe that the mother's life is a matter of even greater importance than the life of the foetus, and indeed that the physical and mental health of the mother, when these are most seriously threatened may be adjudged to be of such importance as not to preclude an abortion, and

WHEREAS, the Criminal Code Section 209 (1), (2) provides for the preserving of "the life of the mother of a child that has not become a human being", but is ambiguous with regard to the legality of such an abortion, leaving medical doctors liable to prosecution even in such cases.

THEREFORE, be it resolved that the General Assembly ask Parliament to amend the law with regard to abortion to make therapeutic abortion lawful, when the continuance of a pregnancy endangers the mother's life or is likely seriously to impair her physical or mental health when authorized by a panel of qualified medical authorities.

**The Chairman:** Dr. Rynard, you have a question?

**Mr. Rynard:** I have a couple of questions. When a girl would be going for an illegal abortion, the minister said that a panel of qualified medical experts would be set up.

What is he referring to when he said, "qualified medical experts"? I think that gentelman in the centre...and I did not get his name...

**An hon. Member:** Mr. Gowland?

**Mr. Rynard:** Mr. Gowland.

**Rev. Mr. Gowland:** Well, for instance, in a hospital, it would be a group of medical doctors. Now, there could be a psychiatrist among them—they are just qualified medical doctors within a hospital. We feel that the decision should not be made by an individual but by a group of individuals. In fact, as I understand it, this is a practice that is used today in hospitals. A decision is not made by one doctor but by a group of doctors. It is really a case of implementing such a suggestion.

**Mr. Rynard:** I was confused by your word "qualified". I thought, surely, there would not be any doctors operating in a hospital that were not qualified.

**Rev. Mr. Smith:** It is probably redundant to qualify the word "medical". I mean, of the two words, one is redundant.

**Mr. Rynard:** Well, this is what I am wondering about—the use of your word "qualified"—because if they are in a hospital and on a committee, they are surely qualified.

**Mr. Knowles:** You spell those out at the bottom of page four section five of your brief.

**Rev. Mr. Smith:** Yes, sir. At the bottom on page four, and at the top of page five is where we interpret this. We are saying that we favour the principle of consultation.

**Mr. Knowles:** Now, about your phrase—

**Mr. Rynard:** What still disturbs me is the wording, "a panel of qualified medical authorities". Surely, a doctor is qualified, or he would not be licensed by the province in which he is operating.

**Rev. Mr. Gowland:** Well, we would accept that this could be stated more clearly.

**Mr. Rynard:** Well, I would like to see you change it. You are qualifying something that is not qualifiable.

**Rev. Mr. Gowland:** We would agree with that.

**Rev. Mr. Smith:** Sir, may I refer to one of the private members bills that would rather

imply, it would seem to me, that in some hospitals in some jurisdictions, a panel of authorities on abortion might be set aside for this purpose. There would be, though other jurisdictions in which no such panel existed and if I correctly remember the private member's bill, would allow one or two doctors on the staff, or whatever, for consultation with the order.

**Mr. Rynard:** Are you ruling out, then, where this lady, or whomever it might be, would go to, or are you ruling out her own private physician, when you are stating this? Surely, he is the one that is best able, and most of them are very conscientious, to give advice on this girl and her family.

**Rev. Mr. Smith:** May I reply by referring to the bottom of page four, sir?

We have in mind that there be consultation before a procedure to abort is decided upon. The woman and her husband (or her parents) are involved. Others having knowledge of the woman's situation may also be involved: the clergy, for instance, or others who may lend their judgment on the possible effects of the course of action being suggested.

**Mr. Rynard:** You do not definitely, then, rule out that you would accept her family doctor as being a qualified individual?

**Rev. Mr. Smith:** Yes, sir.

**Mr. Rynard:** Well, this is what I would like to put clearly because it is not too clear in my mind.

Then, I am wondering about the church. You are saying that the government ought to get into this field and supply funds to social services. Now, what part is the church—because morals surely have a lot to do with the church—accepting in this to carry on this work? Are they trying to slough off some of their responsibility to agencies that are not connected with the church? This is the point on which I would like to get your opinion.

**Rev. Mr. Smith:** The church, sometimes, has sloughed off her responsibility.

**Mr. Rynard:** This is exactly the point that I am coming back to. Do you not think that it is about time that you got back into the church, the home and the school...

**Rev. Mr. Smith:** Yes.

**Mr. Rynard:** ...as part of your duties and not just say to the government: "Well, you come along and pour some money into this and set up some social services"? You then, are leaving out the greatest thing we have in life.

**Rev. Mr. Smith:** That is right

**Mr. Rynard:** I would have liked to have seen you set that out a little more clearly.

**Rev. Mr. Gowland:** I think it must be recognized, Mr. Chairman, that the church is beginning to have a greater concern in these areas than it did have. Therefore, we are encouraged both from within the church and from without, that this is...

**Mr. Cowan:** Do not say that it "did have", say that it "did take". It has always had the moral responsibility. You said it "did have". I would rather you had said it "did take".

**Rev. Mr. Gowland:** Very good.

**Mr. Rynard:** This is what makes us wonder, when you see some clerical college coming out for pre-marital sex and a few other things, just what the church's position is. How much are they helping this whole problem? This is why I brought it up.

I am certainly one for the church, and I believe—I want to make that perfectly clear—that there are a lot of people stating that the church is not pulling its weight today and is trying to slough off its responsibilities under social agencies. This is why I brought up the point, because I think that the problem should stay with the church. Of the training that they get in there as children and in the home and the school, the church must play a very dominant part.

**Mr. Knowles:** Surely, Dr. Rynard, it does not rule out the responsibility of the church to appear before us?

**Mr. Rynard:** I am not ruling this out at all. I am just saying that there are certain directions in here I would like to see put in here, that the church is not sloughing off its responsibility.

**Rev. Mr. Smith:** I think, sir, the very fact that this resolution we possess is born out of the General Assembly of our church—the highest court of that church having a very wide representation across the dominion—is indicative of the fact that our church really is concerned.

**Mr. Rynard:** Well, what we all hope for is that it will keep on being more and more concerned in the life of this country.

**Rev. Mr. Smith:** Right.

**The Chairman:** Mr. MacDonald.

**Mr. MacDonald (Prince):** You indicated that this resolution you presented today was passed by your general synod?

**Rev. Mr. Smith:** Assembly.

**Mr. MacDonald (Prince):** General Assembly. Has this also been referred for consideration to the presbyteries? Has there been discussion with the presbyteries on this for approval or disapproval? What kind of general discussion has there been within the Presbyterian Church on this whole question?

**Rev. Mr. Gowland:** Well, this has been discussed by the presbyteries. The Board of Evangelism and Social Action referred this whole question to the presbyteries for consideration. Part of the material that is in this resolution and adopted by the assembly came from the church as a whole.

In fact, this is how our board acts. We try to get the opinion of the church as a whole and then incorporate it into a resolution that will go to the general assembly. Now, we would say that, maybe, it has not been discussed by as many presbyteries in as great a detail as we would like, but certainly it is the product of the church's thinking.

**Mr. MacDonald (Prince):** Often you get the suggestion that some of the resolutions that come from these top policy-making groups of the various churches are not often reflective of the actual membership of the church because they have not been involved in the consideration and discussion. It is amazing to see the difference of opinion that will exist between the general council and a general assembly, and the individual presbyteries or their constituent parts.

I think that this is important inasmuch as we are tempted to devise a piece of legislation that will be in the best interests and acceptable to a great majority of Canadians.

**Rev. Mr. Smith:** Our denomination usually has been acutely aware of this, you may be assured.

**Mr. MacDonald (Prince):** Another question, similar to that raised by Mr. Howe earlier, is in terms of the steps that Canada should be taking with regard to the preponderant num-

ber of the illegal abortions in the country. Has your particular board done any work in the whole area of meeting directly, or counselling, or attempting to get to people who are contemplating an abortion, or setting up centres that are known to be available in larger urban areas where people can come and discuss these kinds of problems. Has there been any experimentation with a form of counselling service in coming to grips with this problem?

**Rev. Mr. Smith:** There has not been any centre or counselling experience particularly devoted to this problem of abortion, not by any means. We do try to encourage as much counselling procedure and referral between clergy and other professions as possible. One of the activities that we are desirous of undertaking fairly shortly is a conference for ministers in one area on the matter of marriage and family counselling in which we will try to listen to the other professions and agencies and so on, and identify as closely as we can where the responsibilities of the clergy lie and people who are members of Christian congregations and are functioning as agents of the Church in that sense, and where the boundary is between their activities and the activities of other agencies.

**Rev. Mr. Gowland:** Further to this, Mr. Chairman, within the congregation we are encouraging the people with a real concern for these problems to meet and discuss them at the congregational level. This follows through what you have been stating that oftentimes these things are discussed at a board level or a court level and they do not reach the congregation. We are convinced that if the church is to really act in this area, then it is the people within the local congregations that have to discuss it, and therefore we have suggested a machinery structure that will bring together men and women within the congregation who will make this their primary concern, or one of the chief concerns.

**Mr. MacDonald (Prince):** To come back more specifically to your resolution, the area which obviously will cause the greatest amount of difficulty, for my money anyway, will be the area where you say that it is likely to impair her physical or mental health. Have you spelled out what you mean by this in any way, because I think there are many interpretations which can be put on that kind of statement. One interpretation could really amount to an abortion on

demand situation. The other end of the spectrum conceivably could be something that would be so critical in terms of medical description as to almost if not quite result in the complete destruction of the life of that person so that she will be a chronic case confined to a hospital for the rest of her life.

**Rev. Mr. Smith:** Mr. Chairman, may I refer the Committee to this interpretative section on page 4 of the brief which refers to the resolution about the mother's life and the physical and mental health of the mother and how these may be judged of such importance as not to preclude an abortion. In my introduction I said that we would like to talk for a short time on the subject matter of this word "life". May I read this section:

It is our church's view that the life of the mother has priority over the life of the unborn child.

It is our view, furthermore, that a serious threat to her physical and mental health may constitute sufficient reason for an abortion. For this reason we urge a revision of the law to allow for this situation.

Our argument in favour of such a revision is as follows. If there is danger of the mother being physically or mentally crippled she rightly becomes the doctor's most immediate concern and responsibility. Her life is to be preserved, and her "life" does involve her body and mind.

Her family is also involved—the "life" of her family is involved. For the well-being of the family the mother's health, as much as this can be secured and preserved, is of surpassing importance."

Now, what we mean by this, Mr. Chairman, is that the whole question of life is the pivotal question in the whole subject of abortion. This is why, as we said earlier, we do not desire that this become a common practice by any means. This is termination of life, and we have finally come to the conclusion that all the discussion that goes around about when life really begins, when viable life starts, or when the soul enters the body is simply casuistry. This is potential life in any event; if it is left alone it will be a life, and this is not just an extension of the mother, this is life.

**Mr. Cowan:** I do not like to interrupt you but I hope you will be happy to know that one Presbyterian is preaching that doctrine which the Presbyterian ministers have incul-

cated into him for 65 years and every member of the Committee knows that I have been preaching that doctrine...

**Rev. Mr. Smith:** Surely it is not 65!

**Mr. Cowan:** ...which the pulpit taught me. Keep it up, Sir.

**Rev. Mr. Smith:** I was about to come to point two which is the fact that the mother's life has a certain entity to it which includes not merely the fact that she lives and breathes, but that she has being and is mentally and physically of such and such a condition. It is important to her as a person, it is vitally important to her family that, as much as can be, these things be preserved. At the same time, I am sure those who voted in favour of this resolution in the General Assembly—and it was unanimous in my understanding...

**Mr. MacDonald (Prince):** Mr. Cowan could not have been there at that particular time.

**Mr. Cowan:** I will refer to that vote before the day is over.

**Rev. Mr. Smith:** It was the understanding of the General Assembly that when we talked about mental and physical illness as being a likely product of the continuance of the pregnancy we certainly did not mean the chagrin that a woman experiences because of an unwanted pregnancy. I do not think we are being callous in suggesting that she will get over it. We are suggesting this for the reason that Mrs. Herrig spelled out to us, because of the emotional needs of this woman as much as for the needs of her own child, but as a general rule she ought to continue even though the circumstances may be embarrassing.

What we are talking about is the danger of a crippling to the body or mind of a woman which really destroys life.

**Mr. MacDonald (Prince):** Can I sharpen this up by putting a specific case which is almost as applicable as any in terms of its frequency of occurrence, and that is the case of a married woman with a family who becomes pregnant by a man other than her husband. Considering the mental strain and anguish for the mother in that situation, is that, under the terms you spell out here, acceptable in terms of the mental health of the mother?

**Rev. Mr. Smith:** Speaking personally, I would say, no.

**Mr. Knowles:** Her doctor might say, yes.

**Rev. Mr. Smith:** If he is making a judgment on probable permanent damage to the mental health of this woman, that is one thing; if it is a matter of terrible embarrassment and so forth, this may be another thing.

**Rev. Mr. Gowland:** I think this is a very another reason why the decision should not be that of an individual, but the decision of a group of men. One person may...

**Mr. Knowles:** A group of people, not just men.

**The Chairman:** Men and women, and/or.

**Rev. Mr. Gowland:** I think this is a very important point; it should be a group decision.

**Mr. Cowan:** Are women people?

**Mrs. MacInnis (Vancouver-Kingsway):** You will find out.

**The Chairman:** Are you finished, Mr. MacDonald?

**Mr. MacDonald (Prince):** Yes, thank you.

• (12.10 p.m.)

**Mr. Forrestall:** I have one question, Mr. Chairman. On page 4 in paragraph 3 under the heading "Conclusion" you say "The Criminal Code—is ambiguous".

Do you base this on the flowing from within, or through legal advice? You would term it ambiguous, not in conflict?

**Rev. Mr. Smith:** I think "ambiguous" is probably the right word. We did not get legal advice on this at all. We heard that some doctors regarded their position as a twilight zone of legality. One used the phrase "not unlawful". Perhaps this means something far different to lawyers than it does to me, but it would suggest to me that doctors operate within the twilight zone and that we owe it to them to be clear.

[Translation]

**Mr. Matte:** Do you interpret an essential difference between the words "endangering the life of the mother" and "seriously damaging her physical or mental health". Do you mean damaging her mental and physical health to the point where her life is endangered?

[English]

**Rev. Mr. Smith:** No sir; not necessarily so. We think this matter of mental and physical health could be a matter of crippling, in which this woman is no longer the woman she once was, either from a mental or a physical standpoint.

**Mr. Matte:** Thank you.

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, I would like to bring out another aspect which we have not touched on this morning. You suggested this debate hinged around the whole business of when a foetus becomes a child—when you believe there is life—meaning that a person has to be considered a person in connection with abortion. We have had the two concepts laid before us by witnesses. There is one school of thinking that a foetus becomes a person at the moment of conception, the other school says that it is a potential human being up to the period when it becomes viable outside its mother's body. I would like to get your doctrinal thinking on this aspect as a church body.

**Rev. Mr. Smith:** I cannot speak for the church body, but we were discussing this point en route to this meeting this morning. We get rather confused in this debate about when life really commences whether at conception, or a certain number of weeks later on. As far as we can understand things, if this that is in the womb be left alone—it is going to be a life. This is human life, not simply an extension of the woman's body; therefore, we are not consoled at all by any concept of abortion being somehow morally and spiritually right, up until a certain time after conception.

**Mrs. MacInnis (Vancouver-Kingsway):** Then you would say that the human being begins at the moment of conception?

**Rev. Mr. Smith:** It is certainly potential.

**Mrs. MacInnis (Vancouver-Kingsway):** Now, now, that is exactly the point. Is it a potential human being until it is viable, or is it a human being from the moment of conception? That is what I am trying to determine.

**Rev. Mr. Smith:** This is the source of my personal confusion because the word "life", therefore, is given different connotations.

**Mrs. MacInnis (Vancouver-Kingsway):** I am not talking about "life"; obviously it is alive. I was just interested in finding out to which school of thinking you belong; whether you think there is a human being from the moment of conception; or is it a human being from the moment it becomes viable outside its mother's body; or perhaps your church does not have any position.

**The Chairman:** Or somewhere in between.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, or somewhere in between. I am just trying to make it as definite—you know, not nebulous.

**Rev. Mr. Gowland:** Our church has no specific position on this. But again, within this Committee on Family Life and in the discussion of our Board of Evangelism and Social Action, when we sent this report to the General Assembly, in order to get at this distinction, we used the term "human life", not "half-human life", but "human life". I think medical science does recognize the difference between an embryo and the foetus—up to the end of the second month you have an embryo and then you have a foetus, and there is some change. I am not a medical man, but I am under the impression that this is so. To come back to what the Reverend Mr. Smith has had to say, we feel that this human life is sacred.

**Mrs. MacInnis (Vancouver-Kingsway):** From the moment of conception?

**Rev. Mr. Gowland:** Yes; this was part of our report to the General Assembly. Now, this was deleted, but it was part of what the Board of Evangelism and Social Action committed to the assembly.

**Mrs. MacInnis (Vancouver-Kingsway):** Then the basis of your decision would be that you would weigh one human life versus another. In other words any decision that would permit abortion at any stage, would be a decision between the human life of a grown-up woman, and the life of the unborn foetus. That would be where your decision would have to be. It would be between two human lives.

**Rev. Mr. Gowland:** Yes, I think that would be right.

**Mr. Knowles:** That is what your resolution says.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes. So that you, on hesitating, may make the choice that if the woman's life or health is in danger at any stage, you will give the grown-up woman the priority over the unborn being.

**Rev. Mr. Gowland:** That is what it amounts to.

**Mrs. MacInnis (Vancouver-Kingsway):** All right. That is fine along that line. Now I

would like to ask Mrs. Herrig a few questions, with regard to this home for the unwed mothers. Is it a large place? Do you have many girls involved?

**Mrs. Herrig:** Twenty-two to twenty-four.

**Mr. Cowan:** That does not designate the need; that just designates all the money the Presbyterian Church has.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, I come to that conclusion, because the need would be very much greater, no doubt. You have long waiting lists, no doubt. Or, at least they could not wait forever, but, I mean there would be one if they did.

**Mr. Cowan:** How many United Church women do we have in Armagh house?

**Mrs. Herrig:** Pardon?

**Mr. Cowan:** How many United Church women would we have in Armagh house, they are not exclusively Presbyterian are they?

**Mrs. Herrig:** Oh, they are all denominations.

**Mr. Cowan:** That is what I want to emphasize Mrs. MacInnis.

**Mrs. MacInnis (Vancouver-Kingsway):** Right. Oh, I am not suggesting that it is...

Do you ever advise any of those girls—would you ever permit in any circumstances an abortion—to any of them?

**Mrs. Herrig:** They usually would come rather late for that.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes.

**Mrs. Herrig:** This is one thing, you see, they wait terribly long before they approach anybody. I think they are all hoping that one morning they will wake up and they will not be pregnant any more; therefore, they put it off to approach the proper people for discussion. No, I would never have a chance or, I do not think I would ever feel capable of advising them for anything like that.

**Mrs. MacInnis (Vancouver-Kingsway):** What type of advice do you give them generally? To keep the baby and go through with the pregnancy, or to give the baby up for adoption?

**Mrs. Herrig:** We usually do not give any advice; we discuss the pros and cons for both situations: keeping it or giving it up.

Unfortunately, most of these girls are in no position to keep the children because they are very young. They cannot even look after themselves, far less look after a child. But this is done mainly by the Children's Aid Society. Each of our girls is connected with one of the agencies and has a social worker who will plan for the child.

**Mrs. MacInnis (Vancouver-Kingsway):** Have you any way of ascertaining, by your interviewing or anything, whether or not the majority of these girls had access to contraceptives and had the necessary information, or did they just not bother.

• (12:20 p.m.)

**Mrs. Herrig:** They will want to give you the idea that this has been the odd occasion of sexual intercourse. If they would take contraceptives, they would indicate that they want to live that kind of life, which they feel is still not accepted as a whole, so, therefore, they are not using contraceptives.

**Mrs. MacInnis (Vancouver-Kingsway):** In other words, what we were saying earlier was that a more wide-spread use of contraceptives might do something to cut down the incidence of abortions, or unwanted pregnancies. Would you judge from your experience that there would have to be a great liberalization of public opinion about the use of contraceptives to avoid these troubles?

**Mrs. Herrig:** I have a great difficulty there to keep my personal feeling back in this, because I do not think that the contraceptives are the answer for these young girls. We mention the pill so much. Do we really know what side effects these pills have and is it the right thing to make them available to these very young girls?

**Mrs. MacInnis (Vancouver-Kingsway):** What is the right answer, in your opinion?

**Mr. Cowan:** Continence.

**Mrs. MacInnis (Vancouver-Kingsway):** I asked Mrs. Herrig.

**Mr. Cowan:** I am taking it from the Epistles.

**Mr. Knowles:** How about the official Presbyterian here?

**Mrs. Herrig:** Mr. Smith mentioned education and I think this is true. Much better education which should point out the responsibility that there is for these young people. Responsibility towards one another, towards

the life that most likely will result from their behaviour but also the responsibility they have before their families and then before God, if we are Christians.

**Mrs. MacInnis (Vancouver-Kingsway):** What happens to the babies?

**Mrs. Herrig:** You mean in our situation?

**Mrs. MacInnis (Vancouver-Kingsway):** Yes.

**Mrs. Herrig:** Most of them are being placed for adoption, but it is amazing how frequently, the girls who during their pregnancy, were saying, "Oh, there is nothing else I can do but let this child be placed for adoption", cannot give them up once they are born. They do try to find ways to keep them. Just recently, we had several girls who planned to get married.

**Mrs. MacInnis (Vancouver-Kingsway):** What, in your opinion, would be necessary to enable these unmarried mothers to keep their babies? You mentioned that they could not afford to. What would you recommend that society do to enable them to keep their babies, or have you any thoughts along that line?

**Mrs. Herrig:** I do not know if we should ask the government to subsidize them. I think they will have to grow up and realize that they have a responsibility and they have to provide for themselves. When a girl gets married there is the husband too, who first thought he could not afford it, but then with better and longer thinking came to the conclusion that he could. If they find themselves in the position to provide and to maintain a family this is the best thing that can happen. Very often they have to learn and to realize what responsibility comes first. The young men who are in these situations with our girls are very often paying for cars. Quite frequently they give that up afterwards and say, "All right, we cannot afford it. We will get married and find ways and means to get a car later." I think this is healthy and this is the right approach.

**Mrs. MacInnis (Vancouver-Kingsway):** Thank you.

**The Chairman:** You mentioned these very young people Mrs. Herrig. Before we leave this subject could I ask you what the average age of the girls in the home is?

**Mrs. Herrig:** I have said, until recently, the average age it between 17 and 19, but I feel it has come down a little in the last year. I have not figured out this past year's experience. That will come at the end of this month, but I would imagine it is perhaps now 16 to 18 years of age.

**The Chairman:** Thank you very much.

**Mrs. Rideout:** Are these from average families or really poor girls who have not had a chance?

**Mrs. Herrig:** No. They are from average and better families. This is the sad part. We do have the odd girl who comes from training school with a very poor background but the average is definitely good and better.

**Mr. Cowan:** What did you mean by the sad part of it? Is it sadder in certain sections of society than in others?

**Mrs. Herrig:** You would presume that where there is more background it would provide these girls with the way of life they should be leading.

**Mr. Cowan:** It is sad in any circumstance for the family.

**Mrs. Herrig:** Yes, it is.

**Mr. Cowan:** Mr. Chairman, I had not noticed before that this home for unwed mothers is in your riding.

**The Chairman:** No, it is not, Mr. Cowan. It is in Peel County.

**Mr. Cowan:** In Oakville?

**The Chairman:** Not in Oakville. It is in Clarkson, Ontario.

**Mrs. Rideout:** Might I address this question to Reverend Mr. Smith? Before I became involved in politics I had the opportunity to work with young people within my own church and I found there was a great difficulty because of the feeling of the older society in the church vis-a-vis the younger thinking people and it was a real conflict with respect to how frank could you be with teen-agers without causing severe criticism from other parts of the church. Do you think that we are beginning to accept the fact that these things must be discussed with young groups within the church or is there as much of this attitude of things we should not talk about?

**Rev. Mr. Smith:** It was my impression in the last pastorate I held, that this very conservative kind of small community was now readying itself to discuss these things. They are willing to undertake community conferences in marriage preparation, sex, and the psychology of sex. I think there is still a long, long way to go in this crisis of communication between the generations.

**Mrs. Rideout:** But you can see some improvement, can you?

**Rev. Mr. Smith:** I can. Mr. Cromeey is an active pastor, maybe he ought to say a word.

**Rev. Frederick A. Cromeey (Minister of St. Andrew's Presbyterian Church):** I feel this is one of the very encouraging things about our church life and relationship between the age groups. I find that there are some things that I may now bring to my congregation, both old and young, that I know could not have been thought of 10 years ago. At the same time we have to be cautious in the matter. We can overstep the mark in our anxiety to cover these areas and sometimes bring up subjects to the young people that lead them into more thought and relationship that they would not do but for the adults who lead them into it. I think this has been pointed out by my young people. They blame the older generation for exposing them too quickly or in a way that leaves them in very precarious positions. But the position is, I find, very much more promising.

**Mrs. Rideout:** I think it makes us all realize that we must give careful consideration to the proper sex education of children in schools. Certainly the cloud that surrounded us for so many years is lifting and to me this is one solution to the problem we are facing here today in this Committee in deciding the legal responsibility.

**Rev. Mr. Cromeey:** Yes, and I think included there is the fact that all our branches of the church and society are moving together. If one church, one community or one society does it and another does not, this sets up an antagonism; a contrast that is not healthy. On the other hand if there is common action, and this is probably where advice, support and concern from the government, leadership in this area, and the encouragement of local bodies, and churches, does mean that a tremendous lot can be done.

**Mrs. Rideout:** Thank you very much.

**Mr. Allmand:** Mr. Smith, on page 6 of your brief, in discussing Bill C-122, you say:

C-122 including two other grounds:  
"Substantial risk of a defective child being born"

and you say:

We offer no opinion about the first of these two, . . .

meaning, the possibility of a defective child. By that statement that you offer no opinion, does this mean that you do not care whether this is a ground or not for abortion? I am not too sure what you mean by that wording.

• (12.30 p.m.)

**Rev. Mr. Gowland:** Mr. Chairman, in reply, may I say, it just so happens that this is not included in the statement that was adopted by the General Assembly. This is probably what is meant but in the discussions that we had in preparing this for presentation to the General Assembly, the Committee on Family Life and the Board of Evangelism and Social Action, I believe, were of the opinion that the possibility of physical deformity should not be a ground for an abortion for the simple reason that many children with a physical deformity have been very great mentally. They have been geni and have made great contributions to society.

We felt therefore, that, just the possibility of a child being deformed should not give us reason to terminate that life.

Now another reason is this. In discussing this with some medical men we were informed that no one can really tell about deformity until the child is actually born.

This is a very problematical area. Therefore, our opinion would be from the point of view of physical defect or deformity and we would be opposed to abortion on those grounds.

**Mr. Allmand:** Does your church or do you have any suggestions or ideas as to what should be done about this problem of deformed children or children born with mental incapacities? Whose responsibility should it be?

Let us say there have been one or two children in a family that have been deformed and geneticists and doctors have said there is a great chance of another in that family. Whose responsibility should that be? Does your church take any responsibility for deformed children? Do you think the state should do it or the families? If that is the

cause for wanting an abortion, how do you meet that cause?

**Rev. Mr. Gowland:** Mr. Chairman, I believe that our church would go along with the view that in some of these cases the parents would need financial assistance from the municipality, province or state. The mere fact of taking care of these children would be financially a burden for the parents. This is just an opinion but I think that our church would go along with this.

**Mr. Allmand:** You suggest that solution rather than abortion to the possibility of a deformed child?

**Rev. Mr. Gowland:** Yes, for the simple reason that I think no doctor is able to determine whether a child is going to be mentally defective. They may note a physical deformity but I do not think any doctor is capable of making that decision even though there may be many mentally defective children within the family.

I know several families with mentally defective children which also have exceptionally bright children within those families. So who is going to determine this and do you terminate a life? This gets us into the whole area of mercy killing or euthanasia. It is just another variation of this same question.

**Mr. Allmand:** Thank you.

**Mr. Rynard:** Mr. Chairman, just one question on this. I think the reference there was not to other things but just to straight hereditary diseases which are transmitted from one generation to another. I think this is what you are trying to get at.

**Mr. Allmand:** Partly, doctor, yes. Any type of possibility, hereditary or otherwise.

**Mr. Rynard:** Yes, where you get haemophilia—and diseases like that are transmitted down from one generation to the other.

**Rev. Mr. Gowland:** Of course, maybe we should add, Mr. Chairman, that we have not come here on the presumption that we have all the answers. We have looked at this and we feel that we have some things that we would like to share with you.

**Mr. Cowan:** You are a Presbyterian. You do not think more of yourself than you ought to.

**Rev. Mr. Gowland:** It is good to be humble. We feel that other people have answers, too, and we are not suggesting that we are

experts or that we have all the answers but we are happy to be able to make this contribution.

**Mr. Brand:** I just wanted to comment on the brief, Mr. Chairman. A lot of terms like *vis-a-vis* and *inter alia* have been used. I would like to add my own as far as the brief is concerned. I would suggest that *res ipso loquitur* would fit here in that the thing speaks for itself.

I would like to congratulate the Presbyterian Church, for certainly, it must be one of the clearest briefs that has been presented to us. It is one of the first which has devoted itself to the subject matter actually before the Committee. I have no questions about it. I think it is very clear and I congratulate you, once again, for coming before us.

**Mr. Rynard:** I would like to second that.

**The Chairman:** I am sure it would be unanimous but there are still a few people who would like to ask a question or two.

**Mr. Cowan:** Has the church presented its complete statement now?

**The Chairman:** I think there was one other comment. Although we were going to present differently, once we got into the questioning, I think most of the points in the brief have been covered with the exception of one point that Mr. Smith would like to make.

**Mr. Cowan:** I thought something was being held back. I was going to wait until their full presentation was in.

**Rev. Mr. Smith:** Mr. Chairman, the only thing that is remaining on my informal agenda was to draw attention to our observation, humbly submitted I assure you, on the three private member's bills before you.

We recognize that one of these bills, perhaps, will become law. We recognize that it is not the purpose, perhaps, to select one against the other. However, on page six and following, we observe that if we had our choice of the three, we probably would choose Bill C-123.

We have given our reasons on pages six and seven, but there is one matter that we would like to raise on page seven. This is where we beg to ask the Committee a question. I am referring here to No. 2.

#### Consultation and Supervision—

We submit that Bill C-123 would seem to offer better safeguards than the other

two bills in terms of consultation and supervision. We are in favour of the consultation and approval that is prescribed in C-123.

We raise one problem, however. What if the husband or parent refuse their approval and it is clear to the doctors that there is great danger to the patient? If their approval is made mandatory, a situation like this might have grievous results. Is it possible that a panel of medical practitioners might have recourse in law to overrule opposition of this kind?

The question we are raising is this. We are interested in consultation. It should be a family thing and not perhaps, just an individual thing.

Bill C-123, in attempting to preserve this, would ask that consent be obtained from the husband or parent. If this came to pass, what is the situation where a husband really cannot be brought to see that there is danger to his wife or that a father or whatever the case may be sees that there is danger to his daughter? Is it possible that a panel of medical practitioners might have recourse in law to overrule opposition of this kind?

Now, perhaps, this is not the context in which this kind of question needs to be answered but it is a problem that we would like to submit to the Committee for future consideration.

**The Chairman:** I think this is a problem that the medical profession, legally, have already answered in several other spheres. We could probably comment on that later.

**Rev. Mr. Smith:** Such as in transfusions, I would expect.

**The Chairman:** Is it agreed that we print today's brief as an appendix to today's proceedings?

**Some hon. Members:** Agreed.

• (12:40 p.m.)

**Mr. Cowan:** Mr. Chairman, I only want to ask a question or two. I am a member of the Committee, of course, but I am a Presbyterian and I do not like the phrase in the resolution adopted by the General Assembly that the physical and mental health of the mother is involved. I just want to ask some questions of the witnesses. The General Assembly was held in Knox Presbyterian Church here in Ottawa. I attended about a quarter of this

session although not as an official delegate. The Minister down there, Dr. Stewart, came from my church, Victoria Presbyterian, to Knox Presbyterian. I was at his induction here and I sat largely with him and his wife when I was at the General Assembly as an observer. I wanted to ask you this: I consider myself an active Presbyterian and I knew nothing about this resolution coming up before the General Assembly until it hit the floor, and as a member of this Committee on Health for some years past, what Synods sent a suggestion up to the General Assembly that some action be taken on this question, at this last session of the General Assembly? How many Synods are there in the Presbyterian Church?

**Rev. Mr. Cromey:** Eight.

**Mr. Cowan:** Eighteen?

**Rev. Mr. Cromey:** Eight.

**Mr. Cowan:** Eight. How many Synods sent up a resolution asking for an opinion of the General Assembly?

**Rev. Mr. Gowland:** Well, Mr. Chairman, I do not think any particular Synod did.

**Mr. Cowan:** Well I just wondered...

**Mr. Gowland:** Presbyteries.

**Mr. Cowan:** How many Presbyteries sent one up then?

**Rev. Mr. Gowland:** Well I could not say exactly, but a number and a good number of sessions.

**Mr. Cowan:** Well I am interested in details, sir.

**Rev. Mr. Smith:** Mr. Chairman, there are two ways by which recommendations come to the floor of the General Assembly; one is by way of overture from the Presbyteries and the Synods of the Church and the other is by way of recommendations from the Boards of the Church, including that of Evangelism and Social Action. This particular resolution is an instance of that kind. It did not come by way of overture, it did come by way of recommendation from a Board of the Church. The resolution was arrived at therefore by discussion within the membership of the Board which is very largely representative and is represented for instance by Senate convenors of Evangelism and Social Action from across the country.

Now, I cannot remember whether the subject of abortion was perhaps referred to the Board of Evangelism and Social Action by action of a previous General Assembly.

**Rev. Mr. Gowland:** No, many of these arose from discussion. As far as the procedure of the Board of Evangelism and Social Action is concerned, Mr. Chairman, we are appointed by the Church to be alert to the vital issues in the life of Canada, in the world today, and if we as members of the Board see that these are important we begin to discuss them; we write to Presbyteries and congregations to get their information. But many of them are initiated by our Board because this is our Board's job. But I would say, just by way of answering Mr. Cowan, that the reason that he did not have advance notice of this resolution or this recommendation that went to the General Assembly, is that the General Assembly is very jealous of its rights, and when a Board sends a report to the General Assembly that report then belongs to the General Assembly, and it is not broadcast until it comes to the Assembly because it does not become relevant...

**Mr. Cowan:** You are speaking of Parliament and the Cabinet now. We don't know anything either until the Cabinet suddenly tells us what we are supposed to vote for.

**Rev. Mr. Gowland:** Well, that is Mr. Cowan's problem.

**Mr. Cowan:** This is our problem.

**Rev. Mr. Gowland:** This is what the General Assembly enacts and therefore we are not free to publicize these resolutions. They come to the General Assembly and then they become the property and decision of the General Assembly.

**Rev. Mr. Smith:** And this has been integrated before too.

**The Chairman:** I was going to say I would remind Mr. Cowan also that when we had our hearings on birth control, we told all the people who appeared before us on birth control that we would also be sitting at a later date on abortion and that we would prefer to hear from them at that time, so some of this may have been as a result of the previous sittings of this Committee.

**Mr. Cowan:** I just want to put on the record the fact that this resolution passed by the General Assembly did not result as a

result of overtures coming up from the Presbyteries and the Synods because I have made some enquiries on this and of course when Mr. Smith says "or they can come from the Boards". I believe that the full authority of the Church rests in the congregational level, not in the Board's and I wanted to bring out the fact that these overtures have not been received from the individual Presbyteries or Synods in the matter. This is the one thought that I wanted to bring out.

I do not like the Assembly including the clause that the physical and mental health of the mother should be considered because I have been Chairman of a hospital board for 14 years and on a hospital board for 20 years and, I do not like to say it but the lady on the far right...

**The Chairman:** Mrs. Herrig.

**Mr. Cowan:** ...would agree with me, that many of these poor girls can put on a terrific mental act when they are first advised that they are pregnant. And the interesting thing of course is when the poor girls—I say poor—I mean ...

**The Chairman:** Unfortunate.

**Mr. Cowan:** ...unfortunate girls. I do not like to use that word either—it is of their own doing. When these girls are advised by doctors that the reason for their sickness is because they are pregnant, I have never heard of one stating "How could I be?" They are just upset as you know much better than I and they talk about the physical and mental health of the mother. I hate to think of all the acts the doctors are going to have to watch if it should become law that due to the threat to the mental health of the mother.

I have only one other question. There are things in this brief I could not approve more as a Presbyterian. I like your three word sentence "Abortion terminates life." And I like "We find no refuge from this fact"; that is terrific.

There is one other question I would like to ask and it is not directed to you, there are two in fact. Mrs. MacInnis in speaking to you or questioning you asked you about the girls. She said, "Do they, do you recommend that they keep the babies and go through with the pregnancy?" Do you Mrs. MacInnis admit they are babies before they are born? I heard you use the expression...

**Mrs. MacInnis (Vancouver-Kingsway):** I repeated it before and after. I have questions on both.

**Mr. Cowan:** "To keep the baby and go through with the pregnancy" was the question you addressed to the witness.

**Mrs. MacInnis (Vancouver-Kingsway):** All right, but then I came on later. I cleaned up on both questions. That they go through with the pregnancy—that is the first—which would be keeping before the birth and, second, I asked what happened to the adoption of them afterwards, so I did both.

**Mr. Cowan:** The tape recorder has you saying "to keep the baby and go through with the pregnancy" and I wanted it to be on the record without question.

There was just one other question. You were talking about babies being born with a defect. I knew Dr. Logan Geggie. Did he suffer from the fact he had only one arm? I mean should he have been allowed to carry on as a one-armed minister? He had a defect. What about Dr. Salem Bland? He had a club-foot and used crutches.

In the clause about this matter the Presbyterian Church takes a proper stand; that this should not be considered as a proper grounds for abortion I could not agree with more. Can you, being three ordained Presbyterian ministers tell me what was the defect that Paul had? I would like to emphasize to the Committee that Paul had a thorn in the flesh. What was the thorn? Should Paul have not been born?

**Mr. Knowles:** We have one too.

**Mr. Cowan:** I wish to God that everybody had the same thorn, Stanley.

I wanted to ask the gentleman from Markham—he has been rather quiet today—Reverend Crawley?

**The Chairman:** Reverend Cromey.

**Mr. Cowan:** We have heard in this Committee, a great deal about the forward looking people of Scarborough. Scarborough must be "paradise on earth" because we have some members of this Committee who are always extolling the fact that in Scarborough they are now running Birth Control Clinics and I think everything is going to be all right in Scarborough. Markham is just about four miles north of the north limit of Scarborough?

**Rev. Mr. Cromey:** Seven or eight miles.

**Mr. Cowan:** Seven or eight, but, Mr. Cromey, are you aware that yesterday the Medical Officer of Health for Scarborough reported to the Scarborough Council the highest venereal rate in the history of Scarborough. Would this denote any promiscuity in Scarborough do you think or...

**Rev. Mr. Cromey:** I am far enough north of Scarborough not to know very much about what is going on there.

**Mr. Cowan:** I do not believe it. But of that field, I mean. I will believe that you do not know anything about that field. I have no further questions, Mr. Chairman.

**The Chairman:** Mr. Matte.

[Translation]

**Mr. Matte:** I would like to congratulate you and thank you for presenting a brief which was so well prepared and so well explained. Being a minister do you have many pregnant girls that consult you and talk to you about their problems?

• (12:50 p.m.)

[English]

**Rev. Mr. Smith:** In my pastorate we had occasion to counsel with young women, yes, we did. I might say that in my most recent pastorate, two of the young women were referred to Mrs. Herrig's home at "Armagh" and, as a further footnote, received very very excellent treatment and care. This certainly is a problem in towns and cities. Every pastor faces it from time to time and it probably is increasing in frequency.

[Translation]

**Mr. Matte:** Do you believe that whatever their church, ministers are the people who are most often consulted by pregnant girls?

**Rev. Mr. Smith:** Could you please repeat the question?

**Mr. Matte:** Do you believe that, whatever their church, ministers are those that are consulted most often?

[English]

**Rev. Mr. Smith:** Yes, I think ministers fairly frequently are consulted. There are many occasions when young women go to other agencies but it would seem to me to be the case that very often nowadays young women go to their pastors.

[Translation]

**Mr. Matte:** Are you able to solve their problems?

[English]

**Rev. Mr. Smith:** Well, the facilities that we use are usually the facilities of the gospel, in which we try to point to the forgiveness and the reconciliation of it and try to help them to reconstruct their lives to discover that life is not now ended somehow and try to help them find, in very positive ways, the way that God would have them to go and to counsel with their family in the same fashion.

[Translation]

**Mr. Matte:** Do you believe now that the government should do more and what should it do in order to put an end to illegal abortions?

[English]

**Rev. Mr. Smith:** In our earlier answer to Mr. Howe, Mr. Chairman, I suggested that the kind of problem that we are dealing with here is the same kind of problem that some of us discussed with the Minister of Justice with regard to the draft bill on divorce that was then before the Cabinet, and that most churches today—Roman Catholic and Protestant—feel that there are ways by which the Government could give more and positive assistance in terms of finances perhaps, in terms also of the sharing of insights and the sharing of the capacities of the various disciplines that are engaged in counseling so that family life and marriage can be strengthened. I think today very few denominations are any longer worried about governmental interference in the affairs of the churches. Most of us do recognize that Government has a role that it ought to be fulfilling to help society equip itself with the kind of people that can, in turn, be of help to people in dire need. Mr. Howe pointed out that it is needful for the church to regard its responsibilities very very seriously and that the only solution is not to come to Government and ask for help and thus slough off our responsibility. But I would point out that many of the problems that mankind faces, in abortion, in divorce, in preparation for marriage, require the assistance of people who really do have some kind of specialty and some kind of expertise that they can bring, that the church may or may not be equipped to find such people but we

do need, I think, the help of the state to provide more of such people.

**Mr. Matte:** Merci.

**Rev. Mr. Cromey:** Mr. Chairman, might I add that too often perhaps we think of the church as separated when we should be thinking more of the church wherever people are; people are the church. We are the church right here discussing problems. We cannot isolate the problems from the church; this should be a wider area. We should think of the church as being made up of people wherever they may be, not just limited to a particular building or denomination.

**Mr. Knowles:** Mr. Chairman, I would like to join with the others who have thanked our witnesses today for their brief. I might be one who would go a little further in some respects than the brief goes but I think it has been one of the most helpful presentations that we have had before this Committee. I realize this is a statement rather than a question but perhaps I may be permitted to do it. One of the things that I think has been most helpful about your brief is this: some delegations have come before us and have said we must decide whether the foetus is life or not and if we make that decision then everything else falls into place. I like your approach. You have told us that it is life—rather than a life—but that it is life. You made no bones about it and Mr. Cowan has

picked up the phrase that you have used in that connection but then you have admitted that a problem still arises, the problem between the foetal life and the mother's life, and then on top of this you have been before us as a group of people who have admitted that there are problems and questions. It is not all black and white. Frankly, I think it has been an excellent morning. You have been very helpful to us in trying to sort out the problems that we are faced with. Mr. Howe has gone now. He frequently raises this problem of legal abortions which concern us. No matter how much some people may come and say you can go for an abortion, that problem is there.

From here on I am probably just repeating myself, Mr. Chairman, but as one who would go further than your brief goes, I still think it has been a most helpful presentation. I hope the United Church does as well.

**The Chairman:** If there are no other questions, I would like, on behalf of the Committee, to officially thank Mrs. Herrig and Reverends Smith, Gowland and Cromey for coming before the Committee and presenting their brief to us today.

The meeting is adjourned, not until Thursday, but until Friday to receive the brief of the National Council of Women of Canada at 9:30 Friday morning. There will be no Thursday meeting this week.

The meeting is adjourned.

## APPENDIX "X"

## BRIEF

of the

Executive of

The Board of Evangelism and Social Action

of

The Presbyterian Church in Canada

to

The Standing Committee of the House of  
Commons

on

Health &amp; Welfare

Subject: ABORTION

*Authority*—The Executive of the Board of Evangelism and Social Action of the Presbyterian Church in Canada, upon the recommendation of its Committee on Family Life respectfully submits this brief on the subject of abortion.

This Executive body is composed of representative ministers and lay persons of the Presbyterian Church in Canada and has certain responsibilities delegated to it by the Board of Evangelism and Social Action in the interim between meetings of the Board.

This submission contains—

1. A resolution adopted by the 93rd General Assembly of the Presbyterian Church in Canada, which met in June 1967. The General Assembly being the highest court of the Presbyterian Church speaks for the church, and its resolution is therefore an official statement.

2. Observations on the part of the Executive of the Board of Evangelism and Social Action which may only speak for itself, but seeks, in the submission, to offer a faithful interpretation of the position of our church.

3. Comments on the three private members' bills: C-122, C-123, C-136.

This Executive authorizes Rev. F. H. Crome, Rev. A. J. Gowland, Rev. W. A. Smith, Mrs. L. Pearsall and Miss Judy Young to speak on its behalf.

*RECOMMENDATION*—That Private member's bill C-123 be enacted with modifications.

*Resolution Adopted by the 93rd General Assembly, The Presbyterian Church in Canada:*

WHEREAS, an abortion involves a decision fraught with serious moral and spiritual implications,

WHEREAS, it is morally indefensible to legalize abortion in order to reduce the number of illegal abortions, or as a method of population control, and

WHEREAS, notwithstanding the foregoing we believe that the mother's life is a matter of even greater importance than the life of the foetus, and indeed that the physical and mental health of the mother, when these are most seriously threatened may be adjudged to be of such importance as not to preclude an abortion, and

WHEREAS, the Criminal Code Section 209 (1), (2) provides for the preserving of "the life of the mother of a child that has not become a human being", but is ambiguous with regard to the legality of such an abortion, leaving medical doctors liable to prosecution even in such cases.

THEREFORE be it resolved that the General Assembly ask Parliament to amend the law with regard to abortion to make therapeutic abortion lawful, when the continuance of a pregnancy endangers the mother's life or is likely seriously to impair her physical or mental health, when authorized by a panel of qualified medical authorities. *The following paragraphs are offered by way of interpretation of this resolution:*

1. "An abortion involves a decision fraught with serious moral and spiritual implications."

(a) Abortion terminates life. We find no refuge from this fact in the calculations that some people have made about when viable life begins or when "the soul enters the body", nor in attempts to get around the fact by allowing abortions up to a certain number of days or weeks after conception.

(b) There is a wide current debate that raises the question of rights. Does a child have the right to be born? Conversely, does a woman have the right not to bear her child? We believe that a child has the right to be born and that his right to live and the sanctity of his life must be protected. The only allowable exception, in our view, is in the event of danger to the mother in terms that will be dealt with in due course in this brief.

This is to say that we disagree with the view that a woman has the right not to bear her child, and we oppose the view that is to the effect that abortion is not a matter for the Criminal Code at all, but rather a matter for individual decision on the part of the woman concerned. We agree with the principle that has been stated in the words, "Man is the steward of the gift of life and not its complete master".

In another section we wish to comment on the question of the appropriateness of the Criminal Code to moral issues.

*Conclusion:* We are opposed to the principle of "abortion on request".

2. "It is morally indefensible to legalize abortion in order to reduce the number of illegal abortions."

To legalize abortions on this ground would be to resort to expediency. If we are opposed to "abortion on request" we must also be opposed to legalizing a practice on the mere grounds it exists. Nor do we believe that the arguments in favour of performing abortions in clinical surroundings on women who would "go and get it done anyway" are weighty enough to overturn the principle of protecting the life of the unborn.

"...or as a method of population control."

We believe that population control ought to be a matter of conception control, not abortion.

Not only is the life of the unborn at stake, but so is the well-being of the woman. A medical doctor has described to us the great psychological effects on women whose pregnancies have been terminated. A natural process which involves the whole person is interrupted. The woman herself may not realize what this will mean to her as she contemplates having an abortion. She may be preoccupied with the inconvenience of bearing this child. If she is unmarried she may feel guilty. But she may be much better off to bear the child in spite of these considerations, however onerous they may be. The disruption that takes place in this natural process coupled with guilt-feelings because she has been a party to ending the life of her unborn child may be exceedingly serious.

*Conclusion:* We are opposed to abortion becoming a general practice.

3. "... the mother's life ..., the physical and mental health, ... may be adjudged of

such importance as not to preclude an abortion."

It is our church's view that the life of the mother has priority over the life of the unborn child.

It is our view, furthermore, that a serious threat to her physical and mental health may constitute sufficient reason for an abortion. For this reason we urge a revision of the law to allow for this situation.

Our argument in favour of such a revision is as follows. If there is danger of the mother being physically or mentally crippled she rightly becomes the doctor's most immediate concern and responsibility. Her life is to be preserved, and her "life" does involve her body and mind.

Her family is also involved—the "life" of her family is involved. For the well-being of the family the mother's health, as much as this can be secured and preserved, is of surpassing importance.

*Conclusion:* We favour amendment to the law to permit abortion where the mother's physical and mental health are seriously threatened.

4. "The Criminal Code ... is ambiguous."

We realize the insistence of some in the current debate that doctors are protected if they act in good faith to protect a woman's life. We are aware, on the other hand, that some feel that doctors are not sufficiently protected, and that they operate in a borderland where these actions are deemed "not unlawful". We believe that clarification is in order and that society has a responsibility to its medical doctors in this regard.

*Conclusion:* We urge that the legal position of doctors with respect to abortion be clearly defined.

5. "... a panel of qualified medical authorities."

We have in mind that there be consultation before a procedure to abort is decided upon. The woman and her husband (or her parents) are involved. Others having knowledge of the woman's situation may also be involved: the clergy, for instance, or others who may lend their judgment on the possible effects of the course of action being suggested. Our reference to "a panel of qualified medical authorities" does not envisage a formal proceeding or a quorum. What is in mind is the need for consultation so that those concerned may proceed, or refrain, with a measure of confidence that they have made the right decision.

*Conclusion:* We favour the principle of consultation.

*Additional Observations:*

*1. Performing Abortions for Other Reasons—*

The current debate has offered other reasons for performing abortions in addition to the ones cited in this brief. These include rape and incest and danger of defect to the child.

Although these circumstances are not mentioned in the resolution by our General Assembly, it is likely that a law including these would find support within our church. The question of rape and incest was debated by the General Assembly, and an amendment to include them was offered but was defeated. It would seem to be the consensus within the General Assembly that, where pregnancy has occurred by reason of rape or incest, the question of aborting should be treated within the context of the question: is there danger to the life or physical and mental health of the woman? It would seem that the inclusion of rape and incest as reasons for performing an abortion would not be widely resisted by our people, unless it should become a case of subjecting a woman to some legal proceeding to determine whether such conditions obtained. This would be deplored.

*2. Should the Law be Regarded as a Device for Enforcing Christian Standards of Morality?—*

There are some who claim that issues involving private morality ought not to be dealt with in a Criminal Code, or for that matter in any legislation. Abortion is held by some people to be such a matter of private morality.

The Church cannot expect the law-makers to defend its faith, but we believe that the Church and the State have mutual responsibilities. Our "Declaration of Faith Concerning Church and Nation" says, "As her Lord may lay it upon her, she (the Church) declares and commits herself to His will by public proclamations of her courts or agents". Further: "(Christ) ordained the State to serve Him in the administration of His justice and benevolence, by discerning, formulating, and enforcing, such laws and policies as will promote the well-being of all its citizens and curb license, discord and destitution". In the context of this high responsibility we believe it is necessary that the law of the land treat of matters that are of moral, not to say

sectarian, concern. The law must, in the words of a recent writer, chart "a just and prudent course for the whole of society". The subject of abortion must be treated in this kind of way.

We are therefore convinced that abortion is indeed a matter for the Criminal Code.

*The Private Members' Bills Presently Before Your Committee:*

We respectfully offer certain observations on the three Private Members' Bills now before you.

*1. With reference to the "grounds" on which an abortion may be performed—*

Generally speaking, we prefer the wording of Bill C-123, with one or two qualifications.

Bill C-122 uses the wording, "serious risk to the life or grave injury to the health, either physical or mental, of the pregnant woman". We find ourselves in favour of this formula finding it preferable to that found in Bill C-123 which reads "to preserve the life or the mental or physical health". It might be possible to interpret the latter as permitting abortion in order to keep the physical or mental health at the status quo ante pregnancy. If such interpretation were placed on the wording there need not be a serious risk to the woman's health at all.

However, C-122 continues by including two other grounds: "substantial risk of a defective child being born" and "rape and incest". We offer no opinion about the first of these two, not being competent to pass judgment on how such risks can be determined before birth.

With regard to the matter of "rape and incest", for reasons stated we would prefer that these be not included as grounds per se, but that they be seen within the context of risk to life and health.

Bill C-136 speaks also of "the future well-being of herself and/or the child or her other children", and gives as one criterion of this "the patient's total environment actual or reasonably foreseeable". We submit that this is much too broad; it would appear capable of wide interpretation. Into the consideration of performing an abortion many factors would be introduced which a doctor would not always be in a position to assess. Such a formula might be of some relevance in cases where a doctor is well acquainted with the family of the woman and their circumstances; it would be most unfortunate in

cases where a doctor has no such knowledge and is presented with a request for an abortion on the grounds of the woman's "total environment". Such a situation is close to abortion on request.

*2. Consultation and Supervision—*

We submit that Bill C-123 would seem to offer better safeguards than the other two bills in terms of consultation and supervision. We are in favour of the consultation and approval prescribed in C-123.

We raise one problem however. What if the husband or parent refuse their approval, and it is clear to the doctors that there is great danger to the patient? If their approval is made mandatory, a situation like this might have grievous results. Is it possible that a panel of medical practitioners might have recourse in law to overrule opposition of this kind?

*Conclusion:* We prefer Bill C-123 with the two qualifications we have described.

All of which is respectfully submitted.

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OFFICIAL REPORT OF MINUTES  
OF  
PROCEEDINGS AND EVIDENCE

This edition contains the English deliberations  
and/or a translation into English of the French.

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Translated by the General Bureau for Trans-  
lation, Secretary of State.

ALISTAIR FRASER,  
*The Clerk of the House.*

(13)

HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1967

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STANDING COMMITTEE  
ON  
**HEALTH AND WELFARE**

*Chairman:* Mr. HARRY C. HARLEY

MINUTES OF PROCEEDINGS AND EVIDENCE  
No. 13

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FRIDAY, DECEMBER 8, 1967  
TUESDAY, DECEMBER 12, 1967

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Respecting the subject-matters of

Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

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WITNESSES:

*Representing The National Council of Women of Canada:* Miss S. M. Steadman, Corresponding Secretary; Miss M. E. MacLellan and Mrs. J. Frank Flaherty, Members of the Executive Committee, all from Ottawa.

*Representing the Canadian Abortion Law Reform Association (CALRA):* Mrs. Charlotte Lefcoe of London, Ontario.

*Representing the Women's Liberation Group:* Miss Myrna Wood, Miss Peggy Morton, Miss Linda Seese, all from Toronto; and Miss Judy Bradford, of Montreal.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1967

STANDING COMMITTEE

ON

HEALTH AND WELFARE

*Chairman:* Mr. Harry C. Harley

*Vice-Chairman:* Mr. Gaston Isabelle

and

Mr. Allmand,	Mr. Forrestall,	Mr. Orange,
Mr. Ballard,	Mr. Howe (Wellington-	Mrs. Rideout,
Mr. Brand,	Huron),	Mr. Rochon,
Mr. Brown,	Mr. Knowles,	Mr. Rock,
Mr. Cameron	Mr. Laverdière,	Mr. Rynard,
(High Park),	Mr. MacDonald (Prince),	Mr. Simard,
Mr. Chatterton,	Mrs. MacInnis (Vancou-	Mr. Stanbury—(24).
Mr. Cowan,	ver-Kingsway),	
Mr. Enns,	Mr. Matte,	

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

FRIDAY, December 8, 1967.

(14)

The Standing Committee on Health and Welfare met this day at 10 o'clock a.m. The Chairman, Mr. Harry C. Harley, presided.

*Members present:* Mrs. MacInnis, Messrs. Allmand, Brand, Chatterton, Cowan, Harley, Howe (*Wellington-Huron*), Knowles, Rochon, Rock—(10).

*In attendance: Representing The National Council of Women of Canada:* Miss S. M. Steadman, Corresponding Secretary, Miss M. E. MacLellan and Mrs. J. Frank Flaherty, both members of the Executive Committee, all from Ottawa.

As a question of privilege, Mr. Knowles stated that he wished to apologize to Mr. John Hackett who appeared before the Committee on November 30th with regard to proposed legislation on abortion.

The Chairman called on Miss Steadman to introduce the other delegates.

*Agreed,—*That the Brief presented by The National Council of Women of Canada be printed as an appendix to this day's proceedings (*see Appendix "Y"*).

Miss MacLellan and Mrs. Flaherty commented on the highlights of the brief and were questioned.

The Chairman thanked the representatives of The National Council of Women of Canada for having appeared before the Committee and at 11 o'clock a.m. the Committee adjourned to 11 o'clock a.m. Tuesday, December 12.

TUESDAY, December 12, 1967.

(15)

The Standing Committee on Health and Welfare met this day at 11.17 o'clock a.m. The Chairman, Mr. Harry C. Harley, presided.

*Members present:* Mrs. MacInnis, Mrs. Rideout, Messrs. Allmand, Chatterton, Cowan, Enns, Harley, Isabelle, Knowles, Laverdière, Rochon, Rock, Stanbury—(13).

*In attendance: Representing the Canadian Abortion Law Reform Association (CALRA):* Mrs. Charlotte Lefcoe, of London, Ontario.

*Representing the Women's Liberation Group:* Miss Myrna Wood, Miss Peggy Morton, Miss Linda Seese, all from Toronto; and Miss Judy Bradford, of Montreal.

The Chairman introduced Mrs. Lefcoe who made a preliminary statement.

Miss Wood was called and made short remarks.

Mrs. Lefcoe, Miss Wood, Miss Seese, Miss Morton and Miss Bradford were questioned.

*Agreed*,—That the briefs of the Canadian Abortion Law Reform Association (CALRA) and of the Women's Liberation Group be printed as appendices to this day's proceedings. (*See Appendices "Z" and "AA"*)

The witnesses were further questioned.

At 1.25 p.m., the Committee adjourned to 11 o'clock a.m. Thursday, December 14, to receive the brief of the Anglican Church of Canada.

Gabrielle Savard,  
*Clerk of the Committee.*

## EVIDENCE

*(Recorded by Electronic Apparatus)*

Friday, December 8, 1967

• 1002

**The Chairman:** Ladies and gentlemen, I will now call the meeting to order. Before I introduce the representatives of the National Council of Women, of Canada, did you have a question on a point of order, Mr. Knowles?

**Mr. Knowles:** On a question of privilege Mr. Chairman, if I may have a moment of the Committee's time. In fact, I would like to make a public apology to one of our previous witnesses. I think it was on November 30 when Mr. Hackett was here that he and I had a rather sharp exchange over his assertion that the government was dragging its feet on birth control and rushing ahead on abortion. I told him there was legislation in the Senate on birth control but that the government certainly would not move on abortion because the subject matter is before this Committee. I was as wrong as I could be and I almost inferred that Mr. Hackett did not know what he was talking about.

I now find, from answers that Mr. Trudeau gave to a couple of questions that were asked in the House, that Mr. Trudeau's omnibus Criminal Code bill is going to have something on abortion in it. I wish to apologize to Mr. Hackett for having had the audacity to defend the Liberal Government. It is a mistake I seldom make and I will not make it again.

Mr. Chairman, I understand that the provisions on abortion will be minimal in the omnibus Criminal Code. I suspect they will not really solve the problem. We may have to go further. I dare to hope they may even be acceptable to this Committee but that is another question. However, I felt I owed it to Mr. Hackett to admit that I was wrong when I assured him that the government would not deal with something which was before this Committee.

**The Chairman:** Yes, and in keeping with what I said I think it is true that the amendments concerning birth control have been introduced in the Senate, but as far as the

omnibus bill is concerned it is not on the order paper and we have not seen anything to date.

**Mr. Knowles:** No, but Mr. Hackett's assertion was that it would be before Parliament before Christmas. Apparently it will be before Parliament, even if it is only introduced before Christmas. Perhaps Mr. Cowan understands how the government works these things.

**Mr. Cowan:** No, I do not, sir.

Mr. Chairman, does the apology of Mr. Knowles extend to me? You may remember I pointed out to him how they withdrew the estimates of the CBC from the Broadcasting Committee while we were considering them and he informed me that estimates were entirely different to other forms of legislative action. As I said before and I will repeat it again, the Cabinet can do as it darn well likes and to hell with the committees.

**Mr. Knowles:** Yes, Mr. Chairman. I apologize to Mr. Cowan for defending his government. I will not do it again.

**Mr. Cowan:** I am not likely to defend the government either.

**The Chairman:** Thank you very much.

I would now like to introduce the representatives of the National Council of Women of Canada. I will first call on Miss Steadman to introduce the people who have come with her.

**Miss S. M. Steadman (Corresponding Secretary, Ottawa):** Mr. Chairman and members of the Committee, I am here today representing Mrs. S. M. Milne of Winnipeg, President of the National Council of Women of Canada. On her behalf it is my privilege to introduce two members of Council who have given valuable service on the executive and in other organizations which are federated with our Council. Immediately to the left of the Chairman is Miss Margaret MacLellan, who has been active in the Council as vice-president and as a member of our Parliamentary Committee. Miss MacLellan is past president of the Canadian Federation of

University Women. She served the Federation as chairman of many important committees, including the committees on penal reform, status of women, administrative procedures and resolutions. Miss MacLellan represented the International Federation of University Women at the 1960 United Nations Congress on Corrections in London, England. She was a member of the Canadian delegation to the Third Commonwealth Conference on Education in 1964.

On my immediate left is Mrs. J. F. Flaherty. She began her career in the newspaper field and has maintained and developed her interest in public affairs. She is a past president of the University Women's Club of Ottawa, of the Elizabeth Fry Society of Ottawa and of the Ontario Council of the Elizabeth Fry Societies. She is also an Executive Member of the Ottawa Council of Women and the National Council of Women. Mrs. Flaherty has done extensive research work on current social and economic problems and she brings a practical and knowledgeable approach to our committees.

In our Council we are seriously concerned over the many problems of the law which are now under study by this House of Commons Committee on Health and Welfare. Miss MacLellan and Mrs. Flaherty will present some of the reasons for our concern.

**The Chairman:** Thank you, Miss Steadman.

**Miss M. E. MacLellan: (Member of the Executive Committee representing the National Council of Women of Canada):** Mr. Chairman, you have copies of our brief before you. Do I understand that this will be printed as an appendix to the record?

**The Chairman:** Yes. Is it agreed by the Committee that this brief will become part of today's record?

**Some hon. Members:** Agreed.

**Miss MacLellan:** In that case we will not read the brief in its entirety but Mrs. Flaherty and I will pick out highlights as we go along.

You will notice in our introduction that we identify The National Council of Women of Canada as an organization established in 1893 with the Countess of Aberdeen, the wife of the Governor-General, as its first president.

Our Council comprises 54 local Councils, 7 provincial Councils and 20 nationally organized Societies in federation. Altogether ap-

proximately 1800 organizations are federated within the Council at all levels.

Our Councils are located in nine provinces, stretching from St. John's, Newfoundland to Victoria, British Columbia. Over many years the Council has presented submissions to government, royal commissions and other bodies of inquiry.

The policy of the Council is based on resolutions adopted at annual meetings following several months' of study by the federated organizations. In so far as this present submission is concerned, it is based on a resolution adopted at the Annual Meeting in Hamilton, Ontario, in June 1964, and subsequently presented to the Federal Government on January 21, 1965, January 31, 1966 and January 30, 1967.

The resolution reads as follows:

WHEREAS, The sections of the federal Criminal Code dealing with abortion are confused, conflicting, outdated and, in certain instances, cruel and unjust; and

WHEREAS, The deliberations, findings and recommendations of a Royal Commission on the subject would acquaint the public with the evils of the present situation and provide an objective and non-partisan basis for amending the law; therefore

RESOLVED, That The National Council of Women of Canada urge the Government of Canada to establish a Royal Commission to inquire into and report on the laws in Canada affecting abortion, and to recommend clarification and amendments to bring these laws into conformity with the realities of Canadian life.

This resolution has been quoted to draw your attention to the fact that although the Government has not followed our suggestion of a royal commission, the inquiry presently being conducted this by Committee indicates that the government recognizes the need for study and we hope this will lead to amendments of the existing laws.

Section 2 of our brief is a criticism of the existing legislation. You will notice that the last paragraph says that estimates of the number of illegal abortions in Canada vary all the way from 30,000 to 300,000 a year. The latter figure is almost equivalent to the number of live births in Canada. And this is all in spite of the fact that the Criminal Code provides

harsh penalties for such infractions. Any law that is flouted as widely and tragically as the present Canadian law on abortion is, in our opinion, nor only inadequate and unrealistic but it is bad law and tends to bring all law into disrepute.

We realize that legislation cannot precede public opinion, but legislation which is not and cannot be enforced is immoral law and it tends to create a disrespect for all law.

• 1010

Mrs. Flaherty will now take over.

**Mrs. J. Frank Flaherty (Member of Executive Committee):** The next point we raise concerns the history of abortion. In ancient times abortion was regarded as a means of population control.

The first three paragraphs are taken from Volume II of the *History of European Morals*, published in 1886.

It came to our attention, as we went back through history to find out what had happened to abortion over the years, that in early days there was a debate on whether woman had a soul. Until 1588 church law maintained that the soul entered the male foetus at 40 days and the female foetus at 80 days, but since that time the belief has been that the soul enters at the moment of conception.

In the fourth paragraph we say: Current attitudes towards abortion are of recent origin. Even the history of the Roman Catholic Church indicates that attitudes against abortion were expressed only in the last few centuries. No proscription against it appeared in the earlier history of the Church. Protestant Churches are more liberal, but none condones free abortion.

**Miss MacLellan:** Section 4 deals with changing attitudes towards abortion, and we draw to your attention the very rapid changes which are taking place in the public attitude towards problems of family planning, divorce and abortions. A growing number of responsible people, including members of our organization and members of Parliament, are advocating—I should, perhaps, say some members of Parliament. Maybe I had better leave that out. It is not in the brief.

**Mr. Knowles:** The progressive ones.

**Miss MacLellan:** Agreed. I shall start that sentence again. A growing number of responsible people, including members of our

organization, are advocating liberalization of abortion laws to make them realistic and relevant to life today.

We note here only two of the most recent examples. On June 21, 1967, the *American Medical Association* made the first policy change on the subject since 1871. This 216,000 member body adopted a new statement of policy which condones abortion to safeguard the health or life of the mother; "where there is substantial risk that the child would be born with grave physical or mental defect"; and to terminate pregnancies resulting from rape and incest.

I think it is interesting to note that this policy statement follows recommendations in the Model Penal Code of the American Law Institute. It distinguishes between therapeutic and criminal abortion by insisting that abortions be induced only in an accredited hospital by a licensed physician in consultation with two other qualified doctors who have examined the patient and concurred in writing on the need for the operation. The present re-evaluation of abortion legislation that resulted in the AMA's endorsement of liberalized laws and the passage of new laws in three states—California, Colorado and North Carolina—is credited to a study of criminal law published in 1962 by the American Law Institute that called for "reformation of the antiquated abortion laws", some of which were more than 90 years old.

Much of the abortion legislation around the world is based on conditions that existed in previous centuries and fails to take into account all the amazing strides that have been made in medical discoveries and techniques, and is very much out of tune with the times.

The second example we quote is that abortions will soon be available without cost in Britain on very broad social and medical grounds. On October 25, 1967, the British House of Commons gave final approval to a Bill with which I am sure you are familiar—which makes abortion legal if two medical doctors agree that one of the following might result from a continued pregnancy: the life of the mother might be threatened; her physical or mental health might be injured; any of her existing children might be injured, mentally or physically; a child born from the pregnancy might "suffer from such physical or mental abnormalities as to be seriously handicapped".

You will note that this introduces for the first time the so-called "social clause" which considers the effect of a pregnancy on the mental or physical condition of the existing children.

The new British abortion law is more permissive than the much-publicized Colorado statute that requires unanimous approval by a three-physician panel for a legal abortion. Britain's law, which becomes effective in six months, removes all criminal penalties for any operation to terminate a pregnancy if it meets the rules set out in the Bill.

We then come to section 5, Definition of Terms Used. Mrs. Flaherty will speak on this.

**Mrs. Flaherty:** The wording of all the clauses of our resolution will present to the Committee the extent to which the National Council of Women of Canada is concerned with this subject. It is appropriate now to attempt to clarify and define some of the wording used.

The word "confused" is referring to the fact that abortion is dealt with in two sections of the Code. Section 209(1) deals with the definition of the crime and its outcome if guilt is found. Part (2) is a saving clause in which there is the possibility of reason for the performance of a therapeutic abortion. This appears in the part of the Criminal Code dealing with Murder, Manslaughter and Infanticide. But, under Abortion in the Criminal Code Section 237(1) the law is even more adamant. The doctor or patient is placed in a very untenable situation. There is no saving clause in this section, and a doctor may be faced with ruin and imprisonment if he acts in the interests of the patient's life. There are instances where decisions of this type must be made in a matter of minutes and it is unjust to expect the best quality of medical practice under such a possible threat to the physician or patient, for under this clause both are liable. These two sections are inconsistent. No matter what the intent of the originators of the law might have been, the important fact is the interpretation by the person or persons applying the law.

In any discussion on abortion it is purely academic to look back on what preventive measures might have been used to forestall the conception, for this subject concerns a fact that has been accomplished; the patient is pregnant and no retroflection will change the situation. (It might also be noted that at present any form of contraception other than

abstinence is illegal in Canada. (Criminal Code, Section 150, 2(c))

**Miss MacLellan:** The words, "outdated", "cruel" and "unjust" are fitting adjectives, in the opinion of the women of Canada, regarding our present laws. They *are* outdated. In past years, when dealing with Section 209(2) of the Code, that is, the saving clause regarding interruption of a pregnancy to preserve the life of the mother, there were a considerable number of medical conditions for which pregnancy could cause a fatality, such as diabetes, and there were no antibiotics at that time to counteract these conditions.

But due to modern medical techniques, medications and equipment, many of these medical reasons are now of very little importance, and this has narrowed the application of Section 209(2). However, as medical science has advanced and changed so have the socio-economic conditions of society changed, and we have cited the famous case in England in 1938, *R. v. Bourne*, to the effect that psychiatric conditions and the possibility of the destruction of life through suicide in a depressive pregnant women have been the major diagnosis in the incidence of therapeutic abortion.

We wish to point out, too, the inconsistency that arises in evaluating patients for an abortion procedure. Each hospital and its medical staff define their own regulations for this evaluation, (within the framework of the Criminal Code), and these will differ, from one area to another, and from one hospital to another. The number and types of specialists on staff, their relationship to each other, the presence of psychiatrists on staff, all will have a great bearing on the decisions reached in regard to any, or all women. The woman involved, apart from her initial request or presentation to her own doctor has no voice in the final decision.

#### • 1020

We had an additional statement which we planned to use in our presentation but we left it out because the supporting material had not arrived when the brief was mimeographed. Therefore, I would now like to introduce this section, because it brings in another aspect of injustice.

Hospitals tend to evaluate unrealistically the candidates for therapeutic abortion by the percentage of occurrence in relation to live births in their obstetrical-gynecological statistics, rather than by a thorough and objective investiga-

tion of the indications of an individual case.

This statement is based on a quotation taken from *Obstetrics and Gynecology*, Vol. 20, No. 2; August, 1967 at Page 295.

**Mr. Cowan:** In what country is that book published?

**Miss MacLellan:** Canada. I quote:

"The strict and implicit laws, the education of the physician and his dedication to preserving rather than destroying life, have led to an unreasonable limitation of therapeutic abortion. The concept that the incidence of therapeutic abortion is an important factor in evaluating an obstetrical-gynecological service is a natural result of these attitudes and one which leads to a departmental policy for therapeutic termination of pregnancy, rather than to thoughtful evaluation of each individual request".

**Mr. Cowan:** Shame on the doctors! Shame on them!

**Miss MacLellan:** On the question of termination boards I would also like to quote Dr. C. J. C. McKenzie of the University of British Columbia, speaking recently on a panel on the subject of termination boards. He said, "Such a board would only get caught up in its own red tape, and this should be a decision of the patient and her own physician, who after all is the only one who can properly assess the needs of his own patient". The next paragraph in this section deals with some of the conditions for which abortion might be indicated. Perhaps you would deal with that, Mrs. Flaherty?

**Mrs. Flaherty:** Yes.

Those who object to changes in the law regarding abortion often assume that conscience does not enter into the matter at all—that if the law is changed to make therapeutic abortions legal then conscience will disappear and there will be a general demand by women for abortions. This, we believe, is quite unjust and a serious wrong. We doubt if any more married women who have a reasonable expectation of being able to have a child and properly provide for its care and education will resort to abortion for purely selfish reasons. If such is the reason and the abortion is denied, then pity the unwanted child.

We have a further section on the unwanted child later.

While, as mentioned, medical science has improved the conditions for women to proceed with a pregnancy, it also has discovered the reasons for some of the mentally and physically defective children who are produced. Some are the product of toxic reactions to drugs, such as the thalidomide babies, and now babies whose mothers have taken LSD. Others are caused by the mother's reaction to disease. German measles is one very common disease in which a 20% incidence of defective children occurs when this disease is contracted at any time during pregnancy, but has a 60% chance of defectiveness if the disease occurs in the first 14 weeks of pregnancy. Mumps is also being looked upon with suspicion. It is unjust to require that a woman proceed through the remainder of her pregnancy fearful and uncertain of the condition of the child she will bear. If she chooses to do so, this should be her prerogative.

It is hardly necessary to point out that we would not advocate the imposition of an abortion on any woman who does not want it, or whose religious beliefs forbid it. Similarly, no doctor should be obligated to perform an abortion against his will or his religious principles.

Two physicians should be sufficient to authorize an abortion. No woman should have to defend her case for an abortion before a termination board or a committee. It is a negation of her rights as a human being, and an affront to her dignity and self-respect.

In the next paragraph we mention certain offences under the Criminal Code which may result in pregnancy: rape; sexual intercourse with a female under 14; sexual intercourse with an idiot or imbecile; a feeble-minded or insane person; incest...intercourse under restraint, duress or fear; seduction of females between the ages of 16 and 18; seduction under promise of marriage; enticing females into prostitution; abduction of females under 16.

There are incidences of cruelties and injustices in our present laws that permit the victims of a crime to be punished as severely as the guilty parties. This refers to the victims of rape and incest. The act that could produce an undesirable pregnancy is a severe traumatic shock to the woman, single or married. She should not be required to carry and produce the child conceived during such an experience.

The young woman, little more than a child in emotional development, who under the age

of 14 or even 15 becomes pregnant is almost totally unprepared for the role which is being demanded by society for her to follow. Pregnancy in the woman who is an idiot, imbecile, feeble-minded or insane, is always the result of an offence; the burden to these people and to their guardians is intolerable.

Should such women be forced, as they are at present, to proceed with such a pregnancy? We think not.

**Miss MacLellan:** We go on to deal with the plight of unwanted children. As we point out, up to this point our concern has been expressed for women. However, the *National Council of Women of Canada* is acutely aware of the environment and conditions under which children should be raised. What conditions will permit the growth of physically and mentally sound children to adequate adults? It is impossible to insure that all children born will be raised in ideal environment or conditions. This has never been a possibility and it will not likely occur in the future, but there is no reason for society to insist, when there is a possible alternative, that only one course of action be followed.

Every child has the right to be born wanted. Battered babies and neglected children are eloquent evidence of the denial of this right. Society must recognize the cruel disadvantage to the child born of parents with severe psychiatric disorders; it must recognize the tensions, frustrations and often physical abuses that are the child's burden. Today there is an ever increasing number of babies born out of wedlock and awaiting adoption and the tragedy is that there are not enough adopting parents for them. Too frequently these children are being shunted from foster home to foster home. Because of this their physical, mental and emotional growth is warped and stunted.

I would like to quote from an article by Sarah Davies that appeared in the December 1967 issue of *Chatelaine* magazine. It is quite an exhaustive study of what she calls:

#### Adoption Crisis:

#### 100,000 Kids With No Place To Go

They're the leftover children no one adopts, who grow up in foster homes, hostels and institutions—and their number is increasing every year. Why don't we give them a better deal?

They have nobody. Nobody wants them.

There are more than 10,000 children in Canada existing in this pitiful limbo.

Because they are disturbed or retarded or physically disabled, or of a minority race or religion, or just too "old," they are not the kind of children a normal family welcomes easily. Some of the children themselves, rejected for years, would now recoil from a close family. They are, to our disgrace, the children nobody wants. There are hundreds of them in every province, in every city.

Just last Sunday I heard a broadcast of a seminar attended by several clergymen and one of the ministers said that at that time he was dealing with an 18 year old boy whom he was trying to help and that this boy had been in 30 foster homes.

**Mr. Cowan:** These unwanted children should have been killed off before they were raised?

**Miss MacLellan:** No. I think he should have been a wanted baby in the first place.

**Mr. Cowan:** What of the unwanted children, what would you do with them—kill them?

**Miss MacLellan:** No, of course not! I would take care of them.

**Mr. Cowan:** I was just trying to figure out what you were driving at, that is all.

**Mr. Knowles:** What would you do with unwanted MP's?

**Miss MacLellan:** It is true that the number of illegitimate births is increasing and that the number of teenage girls having illegitimate babies is also increasing. At the same time, while there are more babies available for adoption, the number of childless couples willing to adopt is not keeping pace. This is due, in many instances, to the improved methods of treating infertility, and in some cases, as you know, this technique is resulting in multiple births. So the problem is increasing on one hand and the facilities for dealing with it, that is in giving these children a natural home with parents and all the facilities that a child should have, are decreasing. The problem is getting worse.

#### • 1030

As we say, children born as a result of a criminal offence are often rejected and treated with hostility by both parents and society, and this just aggravates the problem and encourages juvenile delinquency.

I would like to quote one statement from Judge Helen McGill. As you know she was a

Judge of the Juvenile Court in Vancouver and I quote:

All who engage in Juvenile Court work realize that yesterday's neglected child is today's juvenile delinquent, tomorrow's criminal.

**Mr. Rock:** You have criminals that come from rich families.

**Miss MacLellan:** Yes, of course. That just aggravates the problem and it shows that this is not confined to any one stratum of society. This is one of the growing problems that we must cope with and must find solutions for. We are not doing it adequately.

**Mrs. Flaherty:** I want to say a word or two about the statistics on abortion.

Since the National Council of Women of Canada requests that amendments to the laws be in conformity with the realities of Canadian life, it might be advantageous to point out a few of the realities which do exist today:

In April, 1962, a submission by this Council to the Royal Commission on Health Services emphasized the fact that the most common cause of maternal death in the large city is a result of criminal abortion. The majority of these women are married and between the ages of 16 to 25, and 40 to 45 years. This is estimated in Canada at about 300,000 per year. The estimate is conservative as no one can state with certainty how many unreported criminal abortions occur.

One-third of the maternal deaths in rural areas, and two-thirds in large urban areas are attributed to the effects of criminal abortion. Many more women are made sterile from infection following such a practice. These numbers are high and will continue to grow, unless society through more humane legislation acts to improve the situation.

Therapeutic abortions occur about 1/500 live births. They occur five times more frequently in the upper socio-economic levels than with indigent patients. This points up the discrimination inherent in existing legislation; it works hardship against those who do not have the money to pay.

There are an increasing number of therapeutic abortions being performed in our hospitals, mainly for psychiatric reasons. The medical profession should not

be placed in an untenable position—of possibly being accused of a criminal offence, the way the law reads now.

**Miss MacLellan:** We have come practically to the end of our presentation and in the conclusion on page 5 you will note that we emphasize very strongly that obviously, prevention of conception is preferable to abortion, and that abortion should be looked upon as a last resort.

An important factor is educating the public in family planning; and when this has been achieved it will go a long way towards reducing the incidence of abortion.

The women of Canada today are more mature and more enlightened in their thinking than ever before in our history. What Mrs. Flaherty did not point out was that when the very august body of bishops debated solemnly in the sixteenth century, whether or not a woman had a soul they decided by a majority of one that she had. So that was a very close shave. Our position today is probably vastly different than it would have been if the decision had been different.

Women are extremely conscious of their role in the family, in the community and in the welfare of their children. The subject which the House of Commons Standing Committee on Health and Welfare is studying and the recommendations which the Committee will forward to the Government of Canada touch the lives of all women in Canada. These will be very personal and important to them. Any recommendations made must meet and reflect their needs, must engender respect and be enforceable. Issues like this are ultimately settled by the temper of the time and we believe that the time has now come for the Government of Canada to adopt an enlightened policy on this important matter. We trust that when your Committee has weighed the many and diverse viewpoints presented to you, as you must, the recommendations in the report you make to Parliament will reflect and meet the needs of the women in Canada and that the legislation stemming from it will be comprehensive, enforceable and above all sensible.

We are grateful to you for the opportunity of expressing these views which reflect the opinions of many thousands of women in Canada.

**The Chairman:** Thank you very much, ladies.

Before we proceed to questioning I would like to say that Dr. Brand kindly obtained a

copy of a Paper that has been referred to many times entitled *Abortion Programs* which deals with the question of abortion in Hungary. Its source is the Hungarian Central Office of Statistics. This is an excellent Paper and makes a very good contribution but before we make it part of our record I think we should write to the source of the Paper and ask for permission to print it as part of our evidence. Anybody wanting to see this Paper should contact Miss Savard, The Clerk of our Committee.

There also is another Paper on abortion in Japan which was actually presented by The Emergency Organization for the Defence of the Unborn Children but it was not printed as part of our records. It gives statistics on abortions in Japan. Is it agreed to make that Paper part of today's record.

**Some hon. Members:** Agreed.

**Mr. Cowan:** Mr. Chairman, in respect of that last reference you made, I had a letter on abortion this week from a lady who enclosed a page of statistics from Japan but there is nothing on the page to show who compiled the statistics, by whose authority they were issued or anything. Mr. Chairman, do you have anything to prove who compiled those statistics, when they were compiled and where they were compiled? What I received in the mail just said: "These are statistics from Japan" and they were on a mimeographed sheet.

**The Chairman:** I do not think there is any indication. It gives some sources of statements, with figures, but it does not say where they are from and so on.

**Mr. Cowan:** I do not think we should put these kinds of figures into the record.

**The Chairman:** Leave it with the Chairman and I will find out. I will have the source authenticated before we print it.

The meeting is open for questioning.

**Mr. Allmand:** Miss MacLellan, I am a bit confused by the brief. You have given us a resolution which you say was adopted by your annual meeting in Hamilton in 1964. Then you go on to give other recommendations throughout your brief. Are these other recommendations the result of your own personal feelings or were they adopted as resolutions at national meetings? I notice that you have no other resolutions but there are random recommendations throughout this brief. Was this whole brief passed by your national assembly?

• 1040

**Miss MacLellan:** This whole brief was written within the past week and so there has been no opportunity to bring it before a national meeting of our organization. We had planned to do so when we meet in Ottawa at the end of January but because we were told that if we wanted to make a submission we must make it now this brief was drafted. The initial draft was made by our Chairman of Health and Welfare, Mrs. N. T. Bennett from Nanaimo, and it was presented to the committee of officers of the national organization for comment and approval. There were a lot of special delivery letters and long distance telephone calls during the week. The comments that came in were sent to the president and then to Ottawa and, with her approval, an editorial committee of four members of the national executive edited the brief and it is as you see it.

The resolution calling for a royal commission is obviously outdated in the light of the deliberations that are now going on. We asked for a royal commission because we felt that this is a subject on which there was a great deal of emotional opinion. There were legal and medical aspects to be considered and it was all very complicated. As a layman organization we thought that a royal commission, with all the facilities at its command, would be the ideal body to deal with it. However, this Committee is now doing so and it is serving in essence the same function as a royal commission. Naturally we would have appeared before a royal commission and we would have had more time in which to do so, we probably would have had several months. The women in our organization felt strongly about the fact that having asked for an inquiry we were really obligated to our members, to the Prime Minister and to the Cabinet, before whom we had appeared on at least four occasions to ask for this, to make a presentation. The views expressed...

**Mr. Allmand:** Miss MacLellan, because we are short of time I would ask with all due respect that you answer the questions very briefly. The reason I asked that question is that the resolution merely recommends there be an inquiry, whereas your brief goes much, much further and makes recommendations as to what the law should be. The House sits at 11 o'clock and it is now eighteen minutes to eleven, so we will have to be brief.

**Mr. Knowles:** Therefore you should make your questions short.

**Mr. Allmand:** I will do my very best.

**Mrs. Flaherty:** May I make a comment about this? When a resolution such as this goes out to the national organizations and down through the provincial and local councils for study it contains a great deal of background material. When the resolution went out it was backed up by arguments and copies of the relevant sections of the Criminal Code, so that when the councils studied this resolution they also referred to the background material. It is the "whereas" clauses and the material in the background information that we have used to expand and form the arguments that we have included in the brief.

**Mr. Allmand:** It seems to me there is nothing in the resolution that comes near the recommendations that you make throughout the brief. In any case, how many members do you have in The National Council of Women of Canada?

**Mrs. Flaherty:** We have 20 national organizations which represent about 750,000 women.

**Mr. Allmand:** In other words, it is an association of many associations?

**Mrs. Flaherty:** Yes.

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, may I with respect suggest that in consideration of the time available to us that at this stage it would be well if we got down to the contentious thoughts in the brief without too much...

**Mr. Allmand:** I think this is very contentious, Mrs. MacInnis, and I just want to know how representative the brief is of this organization. Do the groups that belong to your National Council not represent many religious backgrounds and many social...

**Mrs. Flaherty:** They represent many of the Protestant denominations. As a matter of fact, some of the United Church women of Canada sent in comments on the brief and they would have gone even further than we have gone. They are probably going to make their own presentation.

**Miss MacLellan:** The National Council of Jewish Women have sent into National Council, for consideration and dissemination, resolutions that they are going to bring up and they will be sent out and discussed at our meeting in January. They follow along much the same lines.

I do not think we are saying anything in this brief that could not be substantiated by a large majority of our members. Some of the views expressed are my personal views but I know for a fact that many, many women with whom I have discussed it feel even more strongly than I do on the subject.

**Mr. Allmand:** All right, then. On page 4 you deal with estimates of illegal abortion and you say:

This is estimated in Canada at about 300,000 per year. The estimate is conservative—

I would ask you: where do you get that 300,000 per year?

**Miss MacLellan:** Well, there is one estimate put out by the morality department of the police division in metro Toronto. This estimate, I think, was quoted in an editorial a year or two ago commenting on a remark by the then Chief Coroner, Dr. Morton Shulman.

**Mr. Allmand:** What you are saying here is that you think there was a report put out by a council which was, you think, quoted in an editorial.

**Miss MacLellan:** I said that the—

**Mr. Allmand:** Well, I am trying to tie her down. You were trying to tie down other witnesses on statistics before. I want to know where this 300,000 comes from.

**Miss MacLellan:** You cannot tie anyone down to a figure on abortions, especially illegal abortions. How would you expect to know how many there are?

**Mr. Allmand:** Fine, now we will leave that figure.

**Miss MacLellan:** We say it is widely estimated.

**Mr. Allmand:** All right, that is all.

**The Chairman:** Was that your last question, Mr. Allmand?

**An hon. Member:** You have made your point.

**Mr. Allmand:** In the last page and throughout your brief you say that:

The women of Canada today are more mature and more enlightened—than ever before—

I would presume that—

**Mr. Cowan:** They are smarter than their mothers.

**Mr. Allmand:** Well, I was going to say that most of these women, therefore, would know if they have sexual intercourse that children might result if they do not practise some type of birth control. Is that correct?

**Miss MacLellan:** Well, I would expect the married women to know that.

**Mr. Allmand:** The further question is: if they are so mature and so enlightened, and they do not practice any birth control, should they not be responsible for any children resulting from this intercourse? Why do you think they would practice this type of intercourse if they did not want to have children?

**Miss MacLellan:** I just read yesterday an account of a clergyman who had interviewed 68 young, unmarried mothers and he found out that most of them were extremely naive and one of them had never heard of the word "contraception". She did not know what it meant. So many of these young, unmarried mothers are naive, unsophisticated youngsters.

**Mr. Allmand:** So the problem is not with mature and enlightened women. It is with naive, young women who are not married?

**Miss MacLellan:** Oh, it is part of the problem but as we quote, the great number of abortions—therapeutic and illegal—are for married women between the ages 16 to 25 and 40 to 45.

**Mr. Allmand:** The point is, with all due respect, Miss MacLellan, do you not think these married women know that if they do not practise some type of birth control they are likely to have children and that they should be responsible for these children if they do decide to practise sexual intercourse without birth control?

**Miss MacLellan:** It may have been pointed out to them that under section 150(2)(c) of the Criminal Code it is a criminal offence to give out any information regarding birth control.

**Mr. Allmand:** We have a bill going through Parliament now.

**Miss MacLellan:** Pardon?

**Mr. Allmand:** There is a bill in Parliament now.

**Miss MacLellan:** Oh, I know that, but it has not been passed.

**Mr. Allmand:** That is correct.

**Miss MacLellan:** It is still illegal.

**Mr. Allmand:** But it will be passed, though, very quickly.

**Miss MacLellan:** Well, we hope it will.

**Mr. Allmand:** If it is passed . . .

**Miss MacLellan:** I think the situation will change completely. I think that if there are birth control clinics; if doctors, social workers and all the people who work in social services are free from any taint or fear of prosecution, we will have an enlightened educational system which will go so far it will change the whole picture. A lot of this discussion will be not only academic but completely out of date.

**Mr. Allmand:** Let us say you have this information freely given out and women still have unwanted pregnancies. If these are mature women who become pregnant, do you think they should be allowed abortions almost on request just because the pregnancy was a mistake or because it is unwanted, using abortion as a sort of birth control?

**Mrs. Flaherty:** No, we do not say that. We say at the top of page 4 that we are not advocating that. We have given the reasons, in the cases in which we think abortion might be considered after careful investigation by the woman's own doctor and competent medical support. We do not advocate a board of legal and social workers in the way some do because we think this is too cumbersome and puts the woman in an undignified spot. But we certainly do not advocate abortion on request, and anyway, we are dealing with people who are already pregnant regardless of what they know about prevention.

• 1050

**Mr. Brand:** I must say I agree with the first section of your brief and the last paragraph; the rest of it disappoints me a great deal, I am sorry to say. Have you read any of the evidence of the Committee?

**Miss MacLellan:** I have not had the Proceedings; I have sat in on some of the Proceedings.

**Mr. Brand:** Would you feel from what you do know that there has been sufficient evidence presented to this Committee for us to be in a position to bring in any kind of recommendation, or are there a lot of areas that require further study as suggested by the resolution which you presented on several occasions to the government prior to this?

**Miss MacLellan:** I think the resolution is really very inadequate but because it is the only document we have that has received the stamp of approval of our national organization, it is all that we can present to you formally as a document.

**Mr. Brand:** I think the idea is good; I am not arguing against it. I just wondered if you thought we had enough evidence before us, or have had in the past while, to bring in proper recommendations, or are there a lot of areas that are still contentious?

**Mr. Rock:** We do not have any commission for it.

**Miss MacLellan:** Yes, I would think that this Committee, in my humble opinion, would be qualified to hear all the evidence and to make very enlightened, progressive forward looking suggestions.

**Mr. Brand:** At this time or with further study?

**Miss MacLellan:** I think that is for the Committee to decide. I do not really think that is a fair question, do you?

**Mr. Brand:** I was just hoping you would say yes.

**Miss MacLellan:** All right, I will say yes.

**Mr. Brand:** Thank you very much. Could I go on very quickly here, since we are running out of time. In your historical discussion you seem to quote with approbation Plato and Aristotle. Do you advocate the type of society, the permissive and expedient type of society, that Plato advocated?

**Mrs. Flaherty:** No, we do not.

**Mr. Brand:** Thank you, that is all I wanted to know. You mention the British Bill is more permissive than the Colorado statute, but the Colorado statute does include rape and incest and things of this nature; the British Bill does not. Would you still agree that it is more permissive in your study of it?

**Mrs. Flaherty:** The reason we mentioned that was because of the social clause which does not appear anywhere else.

**Mr. Brand:** Right.

**Miss MacLellan:** And that two physicians would be sufficient to make a decision, whereas the Colorado bill demands a three-physician panel.

**Mr. Brand:** On page 4, you make a statement which I am sure you cannot honestly believe. You say:

Pregnancy in the woman who is an idiot, imbecile, feeble-minded or insane, is always the result of an offence;

Surely you cannot believe that?

**Miss MacLellan:** Well is it not an offence under Criminal Code to have intercourse with such a person?

**Mr. Brand:** Well, let us say that the woman is married, do you honestly believe that?

**Miss MacLellan:** I still think it is an affront to the morals of our society.

**Mr. Brand:** But it is not always the result of an offence though, is it now?

**Miss MacLellan:** Well, in my personal opinion it is.

**Mr. Brand:** But not legally an offence?

**Miss MacLellan:** Yes, but then a lot of things are not legal.

**Mr. Brand:** Yes, this is the point.

**Mrs. Flaherty:** Well does section 140 of the Criminal Code say that it must be a single idiot, or imbecile, or feeble-minded or insane person?

**Mr. Brand:** I think the law has interpreted it to believe this; I believe you are a lawyer Miss MacLellan.

**Mr. Cowan:** How can you prosecute a feeble-minded married woman for being pregnant? I do not think that a feeble-minded married woman should become pregnant in the first place.

**Mr. Brand:** That is what I was getting at.

**Miss MacLellan:** In fact, I doubt that she should be married.

**Mr. Brand:** Thank you very much.

Further on you say:

Society must recognize the cruel disadvantage to the child born of parents with severe psychiatric disorders;

You talk of the cruel disadvantage. Do you believe abortion is preferable to psychiatric treatment of those parents?

**Miss MacLellan:** No. I would not put it that way.

**Mr. Brand:** That is fine. That is all I wanted to know. Thank you very much.

Are you familiar with the Dominion Bureau of Statistics figures on deaths from illegal abortion, which are that just over 200 deaths a year occur in Canada as compared to your figure of 300,000?

**Miss MacLellan:** I worked in the Bureau of Statistics long enough to know that statistics can mean almost anything you want them to. How could they possibly...

**Mr. Brand:** You are suggesting that maternal deaths as a result of illegal abortions occur in one in every 150 in comparison to one in every 100,000, as suggested by the Dominion Bureau of Statistics figures.

**Miss MacLellan:** I do not follow you. We say that...

**Mr. Brand:** I am working on the basis of the number you have here and the number of people in Canada.

**Miss MacLellan:** One in 500.

**Mrs. Flaherty:** That is, therapeutic abortions.

**Miss MacLellan:** Therapeutic abortions.

**Mr. Brand:** Answer me this one question. Would you agree that there appears to be a wide range of opinion on the actual number and that perhaps study should be undertaken in this field?

**Miss MacLellan:** Oh, yes; but how can you get reliable statistics on illegal abortions? Who is going to provide these figures? It will certainly not be the people who are in the bootleg business of doing it, and certainly not the thousands of women who obtain illegal abortions.

**Mr. Brand:** Do you not agree that everybody who dies must have a death certificate and that some doctor at some stage must examine the person to determine the cause of death?

**Miss MacLellan:** But they do not all die.

**Mr. Brand:** You are talking about maternal deaths here. That is what I am talking about. Are you referring to illegal abortions or to the deaths? You refer to deaths in your brief.

**Miss MacLellan:** In my last statement I was referring to illegal abortions and the statistics on maternal deaths.

**Mr. Brand:** You state 300,000.

**Mrs. Flaherty:** Oh, no.

**Miss MacLellan:** No. At the bottom of page 4 we say: "This is estimated..."

**Mr. Brand:** You say this:

... the most common cause of maternal death in the large city is a result of criminal abortion. The majority of these women are married...

and so on.

This is estimated in Canada at about 300,000 per year.

What else am I to believe?

**Miss MacLellan:** Those figures do not pertain to deaths; they are on illegal abortions.

**Mr. Brand:** You are talking about maternal deaths as a result of illegal abortion. Do you mean that? That is what I want to know.

**Miss MacLellan:** No, no, we do not mean that.

**Mrs. Flaherty:** No, no.

**Mr. Brand:** That sentence should be struck out. Is that right?

**Miss MacLellan:** At the bottom of page 1, we say:

Estimates of the number of illegal abortions...

**Mr. Brand:** Further on at page 5 you say:

One-third of the maternal deaths in rural areas, and two-thirds in large urban areas are attributed to the effects of criminal abortion.

By whom?

**Miss MacLellan:** This section was written by our chairman of health. She is a registered nurse and a graduate in hospital administration. Her husband is a physician. She works closely and at all times in the hospitals and I would expect, although she has not given the documentation for this...

**Mr. Brand:** No.

**Miss MacLellan:** ... I know, being the type of woman that she is, she would be able to back that up with documentation.

**Mr. Brand:** That is fine.

**Miss MacLellan:** If you want the authority for it we could get it for you.

**Mr. Brand:** I think we should. My last question is this. Are you familiar with the fact, and I am sure you are, that Saskatchewan has a complete comprehensive medicare scheme and there is one coming into effect in Canada on July 1, I think. Of course, you never know. Saskatchewan has one. Socio-economic causes are not a factor in the treat-

ment of the indigent or otherwise in that province. Are you familiar with any statistics which would indicate that there is any difference in that province from other comparable provinces in Canada as far as the instance of therapeutic abortion or deaths is concerned?

**Miss MacLellan:** No, I am not, but I would not think that the mere fact that they have medicare would have any effect on it so long as the restrictions in the Criminal Code remain.

**Mr. Brand:** But I am talking about socioeconomic factors, as you were.

**Miss MacLellan:** I am not familiar with the statistics.

**Mr. Brand:** Thank you very much.

**Mr. Rock:** Miss MacLellan, in your association do you or any of your members have personal knowledge of cases where married women or single girls have obtained abortions illegally? You have given us many statistics and cases, but we have heard them previously from other people.

Have you or any of your group known any actual cases?

**Miss MacLellan:** Yes.

**Mr. Rock:** You have. Can you expand on them in any way?

**Miss MacLellan:** No, I do not think that I can because the cases I know are from my personal contacts and my work in voluntary organizations; so I could not document or cite particular cases.

**Mr. Rock:** Do you feel that this sex education that they are giving at school these days will have a great effect in the future on family planning, and that most of the problems we have today will more or less disappear in the future?

**Miss MacLellan:** I think it has great possibilities. I am not familiar with how it is actually conducted and how effective it is. Again, that would depend largely on the calibre of the people who are giving this type of education. I am heartily in favour of it. I think it is one of the areas in which sex education should be promoted. Basically, it starts in the home, but if it does not start there, and it so often does not, then the school is certainly preferable to the street.

**Mrs. MacInnis (Vancouver-Kingsway):** Do we stop now at 11 o'clock or do we go on?

**The Chairman:** There is time for one question.

**Mrs. MacInnis (Vancouver-Kingsway):** The question that I want to ask is this. Having worked in the Bureau of Statistics, do you think there is any way in which this Committee, to your knowledge, could get at statistics involving the number of illegal abortions? What could we do to get some statistics?

**Miss MacLellan:** I do not know how you could get them because it is almost impossible to get statistics of something that is done under the table. It is without the law and nobody is going to come forward and give you accurate information. The law of self-preservation comes into effect there.

**Mrs. Flaherty:** Hospitals would have statistics on the number of women who finally get to the hospital after an illegal abortion.

**The Chairman:** No, that is not true, either.

**Miss MacLellan:** No.

**The Chairman:** Many of the ones who come into hospital are never diagnosed whether they are "legal" or "illegal".

**Miss MacLellan:** No.

**Mrs. MacInnis (Vancouver-Kingsway):** I will go to my next question. I am not asking you to commit the National Council, but from the experience of any one of the three of you, do you believe that there are many, many cases of women trying a "do-it-yourself" procedure for abortion across this country that would be eliminated if they could get a therapeutic abortion on limited grounds? I do not mean just on permission, but on limited grounds. Do you think that it would serve a purpose for a great many married women who, at the present time, are trying a "do-it-yourself" procedure?

**Miss MacLellan:** I would certainly hope so, particularly if they were encouraged to do so and if they knew that what they were contemplating was not a criminal offence under the law. Yes, I think that if the stigma of criminality was taken out of the legislation, a great many married women would take advantage of the improved situation and would, first of all, go to their own doctors. I cannot see why they would choose such horrible and ineffective alternatives with such a high prospect of disease, and possibly death. I think that education, again, is the big factor. We have to educate people and change public opinion, too.

**Mrs. MacInnis (Vancouver-Kingsway):** Do you think so, too, Mrs. Flaherty?

**Mrs. Flaherty:** Yes, I think so.

**The Chairman:** Mr. Cowan, do you have a last question?

**Mr. Cowan:** I have one question I would like to direct to Mrs. Flaherty. You are aware, I believe, that the divorce legislation now before the House of Commons was introduced by those two well-known bachelors, Pierre Trudeau and Allan MacEachen.

**Mrs. Flaherty:** Yes.

**Mr. Cowan:** Is there any significance to be attached to the fact that two-thirds of the delegation here this morning are unmarried women?

**Miss MacLellan:** No.

**The Chairman:** If there are no other questions, on behalf of the Committee, I would like to thank the representatives of the National Council of Women of Canada.

The meeting is adjourned until next Tuesday when we will receive two different briefs from The Women's Liberation Group and the Canadian Abortion Law Reform Association.

## Tuesday, December 12, 1967

• 1118

**The Chairman:** Ladies and gentlemen, we will open the proceedings of today's meeting. There are two groups of witnesses before the Committee today; they are representatives of The Canadian Abortion Law Reform Association and of the Women's Liberation Group.

I will call first on Mrs. Lefcoe of London Ontario, representing The Canadian Abortion Law Reform Association. You have had this brief in your possession for some time. Mrs. Lefcoe was due to come before us earlier, but has been sick and we postponed her attendance until today.

**Mrs. Charlotte D. Lefcoe (President, The Canadian Abortion Law Reform Association):** Thank you, Mr. Chairman and members of the Committee. The World Health Organization's definition of health is:

... a state of complete physical, mental, and social well being and not merely the absence of disease.

We are, of course, interested in seeing that this country has a high standard of health and can therefore not ignore the problem of illegal abortion. An estimate of 300,000 criminal abortions annually is not easily ignored.

This is an obvious health problem and can hardly be shrugged off as being of no medical or social importance. Even if this estimate is too high, it is still a proven major medical problem. In the words of the committee on maternal welfare written in the Ontario Medical Review of August, 1966:

This report also presented a table showing the rate of abortion deaths in Ontario for the years 1958-64 inclusive. It is the opinion of the chairman and the secretary of this committee that the question of abortion is one of the most serious problems confronting us at this time.

• 1120

A study done by Drs. Noonan and Cannell in Toronto reported in the Ontario Medical Review states that

...septic abortion accounts for by far the greatest number of infections and is the outstanding cause of direct obstetrical deaths in Ontario.

This article goes on to say that,

It is estimated by the Abortion Squad of the Morality Department of the Metropolitan Toronto Police that more than 35,000 criminal abortions are procured annually in this area, a sad commentary on the moral standards of the present day.

One of the textbooks used by the medical students at the University of Western Ontario, *William's Obstetrics*, states

The exact incidence of illegal abortion is for obvious reasons, unknown but observers believe it is appallingly high. Some idea of the magnitude of the problem may be gleaned from the fact that nearly half the maternal deaths in N.Y.C. are due to abortion. An educated guess places the rate at not less than 15% and not more than 25% of live births. In some South American countries the incident approaches 50%.

The greatest majority of women who seek illegal abortion are between 28 and 40 years of age, married and with two or three children by their own husbands. These women come from all walks of life and from all religious backgrounds. In Latin America, where the majority of women are very religious, the leading cause of maternal deaths is illegal abortion.

At the University of Chile a study revealed 35 to 40 per cent of all pregnancies ended in abortion. Illegal abortion causes two out of every five deaths among pregnant women.

A sample taken of some 2,000 women in Santiago shows 26 per cent admitting to induced abortion; a study from Korea shows one in four admitting to illegal abortion; in Mexico three women out of ten admit to having at least one abortion each; the Chief of Gynaecology at Lating America Hospital, Guatemala calls his rate one of the highest percentages of provoked abortion in the world; in Caracas, Venezuela 35 women are admitted daily for abortion-caused emergencies in contrast to 90 admitted for childbearing.

Dr. Mary Calderone, Medical Director of the Planned Parenthood Federation of America writes about France, a Catholic country, where no abortion or contraceptive measures are legal, yet its citizens use abortion as one method of lowering the birth rate. She says, I:

... "have no figures on the mortality rate in France but various opinions estimate that a ratio of illegal abortion to live birth is approximately 1 to 1."

She goes on to say:

"When a responsible female seeks an abortion, unless the warrant for it is overwhelmingly as may in the case of rape or incest we are in effect confronted with a sick person..."

No matter how strong the religious convictions of women, as proven in South America and France, there is no feeling stronger than the desire to have or not to have another child. No amount of religious training will stop a woman from procuring an abortion when she knows that she is incapable of caring for another child. No woman wants to watch a child grow up in filth and disease and increasing poverty as in so many parts of South America.

There is an excellent report in the *Time-Life Books*, a responsible conservative publication, on birth control and abortion. In this they report that even in the United States illegal abortions cause many deaths. They have estimated them to account for 45 per cent of all deaths connected with pregnancy and childbirth. In other nations, as in the slums of Rome, a social worker reports that most women have had abortions in the pro-

portion of two abortions, on the average, for every three children they actually have.

In Belgium, with 200,000 live births a year, most physicians agree to about 100,000 illegal abortions.

The problem is universal. Woman is the same the world over, but the men have made the laws and the women must suffer for it. Women are not entirely blameless for this situation. For many generations the woman accepted her inferior position. She was regarded as nothing more than a baby machine, an implement with no control over her reproductive functions. Had there been female doctors, psychiatrists and lawyers a hundred years ago this law would never have been imposed upon us.

I am not, as some of you men may think, a radical feminist, but I do believe that the only way in which I differ from man is in my physical makeup. All that I ask for myself and for all women is nothing more than I would ask for any human being—dignity. I ask the right to choose what to do with my own body and any part thereof; I ask to be treated with a respect due any member of the human race. I am not an animal to be bred at the will of others.

#### • 1125

Some men feel very strongly that they have no right to make laws which involve them in no direct way. As one member of Parliament in England, Lain MacLeod, put it,

"For a generation this dispute has raged..."

I heard and read excellent and sensitive speeches from both sides of the House for and against the bill as the debate swept across party lines. And I wonder if any of my male colleagues felt as I did—that we should not be there at all. Just because we were men. Male doctors told us of the medical problems, male lawyers explained the law, male Catholics expounded their beliefs. And all the time I couldn't see what it has to do with us. How can men begin to understand what a woman feels in her heart when she has an unwanted child in her womb?"

I disagree with Mr. MacLeod on only one point when he says that it has nothing "to do with us." I believe the request for an abortion may come as a direct result of a medical or mental condition of the husband. If a man is unable to work because of illness and the

woman becomes the breadwinner an unwanted pregnancy could mean the end of their family life; a child may have to leave school and go to work to help support the family and thus ruin his future; the family may have to go on welfare or seek support from other sources. The woman does not exist in a vacuum. What affects her affects the entire family.

Rubella is a proven cause of heart disease, brain damage, blindness and deafness. In the November 25th issue of the *Canadian Medical Association Journal* there is a report on "The Cardiovascular Defects and The Rubella Syndrome". It shows the high percentage of children born with heart defects if the mother has contracted german measles in the first four weeks of pregnancy.

This disease is often hard to diagnose and the symptoms may resemble those of the common cold. If a woman finds out that she has been in contact with german measles and that what she thought was a cold could have been german measles we are confronted with a very serious problem. Do we have the moral right to insist that parents bring into this world a child who may be badly deformed, blind, or deaf? This, to me, is a very heavy responsibility for society to bear. The parents and their doctor should be able to determine the outcome of this pregnancy.

Too little thought is given to the child born unwanted. So many studies have been done on the unwanted child, and the results of a deprived childhood. In a book called *The Psychology of the Unwanted Child* the author says, "An unloved child is liable to suffer emotionally in the same way as an undernourished child is likely to suffer physically. Parental love should be the birth-right of every child. The rejected child, she says, "feels hated and responds by hating and turning his antagonism on to society". Dr. Bowley also says that "a study of the case histories of criminals indicates that a high percentage suffered emotional deprivation in some form in babyhood." This type of environment, she points out, "is a breeding ground for unhappiness, discontent and delinquency."

There are many books and articles on child abuse and child beatings.

One such book, "*Wednesday's Children*", points out how unaware people are of children whose heritage does not include either security of welcome or the satisfaction of

food. She describes the treatment that small children receive at the hands of their parents most of which is almost impossible to believe were it not for the fact that our own newspapers carry similar stories and any Children's Aid Society who has had to remove children from their homes for their own protection can verify these facts. These children, Dr. Young points out, when they become parents will treat their own children in exactly the same way. Dr. Karl Meninger, of Reformed Meninger church, an outspoken advocate of planned parenthood has stated that "the most troublesome people in any society are the adults who were unloved, unwanted children. They are the haters, the killers, the mental patients unable to cope with life because they grew up without guidance or emotional security."

There are those who believe that there is a need for illegitimate births in order that those unable to conceive will have children to adopt. Ask any director of any Children's Aid Society and they will inform you that this situation, though it may have been true at one time, is no longer true. A lack of adoptive homes is the problem today. In London, Ontario, we have as recently as two weeks ago been informed through our local newspaper of the situation which, in the words of the head of the children's service department, has "become extremely desperate." Children from London are now being taken to other centers since "there is a crying need for foster and adoptive homes." The adoption situation has been building to crisis proportions for about the past two years, said Mr. Cass, and "there are other areas where the problem of homes is much more severe than here in London".

In Sweden a very comprehensive survey was carried out on 120 children of women who were refused termination of pregnancy. In particular, these children were studied for mental and educational level and social adjustment up to the age of 21. These children were compared with a control series and every person in the series was followed up. Data was extracted from the records of various social agencies, the army, and psychiatric departments; and unwanted children, it became clear, showed more antisocial and criminal behaviour and rather more drunken misconduct, and they got more public assistance than the control group.

It seemed the reasons which led a woman to apply for legal abortion also later exposed

the child to greater social and mental handicaps. The doctors concluded that the social risk to which the child will be exposed must be considered in deciding for or against termination.

The unwanted child born to the married woman may suffer a no less lonely or loveless life. Baroness Summerskill put it very well in her address to the House of Lords. She said: "I believe that we have a moral obligation to help children fulfil themselves. Should not our obligation become extended to the unborn child? I regard it as sheer hypocrisy, indeed humbug, to spend colossal sums on welfare services, reformatories, prisons, to produce reports ad nauseam on the psychological effects of a bad home on a child, and yet to acquiesce in a system which denies relief to an over-burdened expectant mother, who knows that she is quite incapable of doing justice to another child..."

Dr. Frederick Elkin, who taught at McGill University, in his book called "The Child and Society" also speaks of the lack of early parental affection and the resultant psychopathic personality. These children who suffer from deprivation are the ones, he points out, who most often need the help of psychiatrists and are unable to establish meaningful relationships in adulthood. They also are unable to differentiate between right and wrong and have a noticeable lack of conscience.

I wish to end by saying that no person would ever be forced to have an abortion and no doctor whose religious convictions prevent him from performing an abortion should ever have to perform one. Our organization wishes to support Mr. Herridge's Bill since it takes into account the woman and her family, and is most realistic in its proposals to stop the current criminal abortion racket and protect the victims of these illegal abortions, the woman.

Pearl Buck ends her book called "*Children for Adoption*" with these words "Somewhere, somehow, we must consider the nature of love, how to give it, how to receive it. It is the loveless man and woman who threaten our national life and culture. And each was once a loveless child."

Thank you.

**The Chairman:** Thank you very much, Mrs. Lefcoe. Before we proceed to questioning we will ask Miss Wood, representing the Women's Liberation Group, if she would like to make a statement at this time.

**Mr. Knowles:** Mr. Chairman, since the material that was given to us is different from the brief, will the brief itself be printed in today's proceedings?

**The Chairman:** I thought we would do that after we had heard from Miss Wood.

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, we are departing a little from procedure. Have we not, in the other cases, devoted attention to the brief that is before us first before going on to the next one?

**The Chairman:** No, we have been hearing them both because we save a great deal of time that way, and then maybe both groups will want to answer the same questions.

**Mrs. MacInnis (Vancouver-Kingsway):** Fine.

**Miss Myrna M. Wood (Women's Liberation Group, Toronto):** The Women's Liberation Group is a new group loosely affiliated of young women in cities across Canada. We have very active groups in both Toronto and Edmonton. We have small groups in Montreal, Vancouver, Halifax, Kingston and Regina. Most of us met in the past years in anti-war work and through our work in community organization. We do not wish to present any more material this morning besides the brief we have offered to you, except to say that in the past three weeks in Toronto alone two women died in hospital after having haemorrhaged from illegal abortion.

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**The Chairman:** Thank you, Miss Wood. Is it agreed that the briefs be printed as appendices to today's Proceedings?

**Some hon. Members:** Agreed.

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, does that include the actual submission by Mrs. Lefcoe?

**The Chairman:** It is verbatim; it is taken down verbatim.

**Mrs. MacInnis (Vancouver-Kingsway):** Oh, yes. It is not necessarily just the brief?

**The Chairman:** No, no. We have her verbatim testimony plus her brief. The meeting is open for questioning.

**Mr. Stanbury:** Mrs. Lefcoe, I wonder if, very briefly, you could tell us something about the nature of your organization as Miss Wood just did about hers?

**Mrs. Lefcoe:** It is described in the brief at the very beginning. We organized in March,

1967. The membership at present is about 120; however, we do not require any financial commitment to accept a member and we have not really had an all-out membership drive. We had one public meeting at which 100 people showed up and 65 joined. After that, I spoke a few weeks ago, when 60 people joined, but there has been no all-out effort.

**Mr. Stanbury:** This is limited to the city of London, is it?

**Mrs. Lefcoe:** At present, yes.

**Mr. Stanbury:** Perhaps both witnesses might answer this for me. I am concerned that each submission tends to claim to speak for women. My experience in receiving mail is that all women do not think alike on this subject. Would you have any idea of the religious breakdown of your organizations?

**Mrs. Lefcoe:** In other words, are there any Catholics in our organization?

**Mr. Stanbury:** Well, not necessarily just Catholics. There seem to be a number of religious groups who disagree with you on this subject and it is not necessarily only the men of those religious groups that seem to hold those views. That is why I am interested to know whether there are members of some of the religious groups that seem to oppose abortion in your organizations.

**Mrs. Lefcoe:** One thing I never ask people is what their religious affiliations are.

**Mr. Stanbury:** I think it has some persuasive effect on this subject. If, for instance, we should get a brief from the Catholic bishops saying that they are opposed to any reform of abortion law, Catholic bishops happen to be all men. On the other hand, if we should be told by you that 50 per cent of your members are members of the Church which is led by the Catholic bishops, this might have some influence on our thinking, might it not?

**Mrs. Lefcoe:** It might. I am afraid I do not know the answer to that. I know there are people from other religions, but I do not know what the breakdown is.

**Mr. Stanbury:** I do not single out the Catholic religion as anything but an example, because there are other groups which apparently hold similar views. Would you have any information on that subject, Miss Wood?

**Miss Wood:** I do happen to know that most of our members were raised as practising Christians or Jews in their churches. Most of

them would not agree with whatever church they did grow up in on these issues today. In fact, Mrs. Davidson, who spoke only last week in Toronto, said that she is a practising Roman Catholic and that she feels very strongly that all women should make their own decisions for themselves.

**Mr. Stanbury:** Is that the lady who accosted me and could not understand why we were wasting time discussing this subject because it was so obvious that there should not be any law to restrict abortion?

**Miss Wood:** I do not know; when was that?

**Mr. Stanbury:** On television.

**Mr. Knowles:** Tell us more.

• 1140

**Mr. Stanbury:** The differences of opinion are so violent on this subject that I am particularly interested in knowing whether your representation of speaking for women generally has any great validity. I think the main way to test that is to find out whether or not some of your members belong to those groups which, as groups, oppose any reform. I assume you are not able to help us on that point.

**Mrs. Lefcoe:** Do you not feel, though, that we learn so much from the experiences of other countries? You cannot question South America; you cannot question France or—

**Mr. Stanbury:** I think that is very helpful. I am concerned at the moment in knowing what Canadians think about this subject, and one of the reasons that you are here is so we can find out what the Canadians you represent feel about it. I tend to agree with both your presentations, but in this Committee we are struggling with the problem of how to amend the law in the way in which Canadians would want it amended as well as the way in which it would be practical for the individual and for society.

**Miss Wood:** Mr. Stanbury, that is why we are recommending that a referendum be held so that women can vote.

**Mr. Stanbury:** I am afraid I am not impressed with referendums.

**Miss Wood:** Of course, all women do not agree on the question you ask or on any other question. However, I have found in my experience that women who have thought about this deeply generally do agree with us.

They certainly agree with the need for reform of the abortion laws.

**Mr. Chatterton:** I have a supplementary question. Is the suggestion that the referendum should be limited to women?

**Miss Wood:** Yes.

**Mr. Stanbury:** Miss Wood, I presume you might feel, as do many of us, that reform is long overdue in this field. Would you be satisfied to wait for a year or more perhaps to organize a referendum and obtain the results of it and then go through the parliamentary process before any change is made?

**Miss Wood:** There are two answers to that question. One answer is that at the rate things have been going it will take that long anyway. The other...

**Mr. Stanbury:** I think that demonstrates a lack of knowledge of what has gone on, because in parliamentary terms this has developed very quickly.

**Miss Wood:** It has been spoken of for some years.

**Mr. Stanbury:** The point is that government has taken the decision to recommend changes.

**Miss Wood:** Yes.

**Mr. Stanbury:** It asked this Committee only a few months ago to study the matter. The only thing that has limited this Committee in arriving at a recommendation to present to Parliament has been the number of people who have wished to give us their views, yourselves included.

**Miss Wood:** However, Parliament as a whole has neglected to treat many of these subjects seriously, such as birth control information, and that sort of thing, for some years.

**Mr. Stanbury:** I am always amazed when people suddenly start to criticize Parliament for neglect at a time when they are suddenly starting to do something about it. Please recognize what we are doing.

**Miss Linda Seese (Women's Liberation Group):** I think there is a difference between our suggestion and the proposed reforms, if we have to make a choice between them. We suggest that abortions be open to any woman who so desires one, health permitting, from a licensed doctor or hospital rather than the proposed reforms. I think we would be willing to wait for that for a year.

**Mr. Stanbury:** All right. Let me see if I understand what each of you are proposing. I think I understand perfectly well what you are proposing, you are proposing abortion on request.

**Miss Seese:** Subject to the health of the mother, yes.

**Mr. Stanbury:** Yes, and without a time limit in terms of a certain number of months of pregnancy?

**Miss Seese:** We would suggest before the third month.

**Mr. Stanbury:** You are suggesting that the law permit it up to the end of the third month?

**Miss Seese:** The end or the beginning?

**Miss Judy Bradford (Women's Liberation Front):** I believe that we feel that the clause which reads "subject to the health of the mother" means in effect that the abortion should be performed as early as possible. Medical evidence tells us that after the third month the danger to the woman involved increases, so I think this is something we would be willing to leave to the doctors. We certainly favour abortions as early as possible in a woman's term. This is one of the reasons we are not in favour of those recommendations which suggest that a board of doctors be set up, because we feel the time involved with such a board would mean that women would have to wait until the medical danger is greater before they could have an abortion.

**Mr. Stanbury:** If when you speak of a board you mean a therapeutic abortion committee in a hospital, the Canadian Medical Association would disagree with you. They told us that these decisions were made in just about every case within a matter of 24 or 48 hours and there was no problem of delay in the case of medical abortion committees.

**Mrs. Lefcoe:** It is probably made that quickly because there are so few requests at the present time.

**Miss Seese:** They are not made that quickly when you take into consideration that it is often the end of the second month before the person discovers they are pregnant. Very often there are reasons for skipping a period the first time. The second time they may wonder. They then have to go and have a test to determine if they are pregnant. Appropriate appointments would then have

to be made with the doctors. The actual decision itself may only take 24 hours but as it now stands—and we know that legal abortions are performed—one has to get an appointment with one or two psychiatrists, another appointment with an obstetrician, and as we know the medical profession is so overburdened that one cannot just walk into a medical office, one has to wait.

**Mr. Stanbury:** Surely the reason for this is that abortions are now granted for reasons of health and it takes time to determine whether or not that health criteria is present.

**Miss Seese:** Simply a visit to a doctor's office for an examination will determine that. That does not take much time. I am saying that it takes time to get appointments with doctors, and the more you have to go through to get a recommendation the longer, of course, it takes.

**Mr. Stanbury:** I do not want to take too much time right now because other members have questions. May I ask you, Mrs. Lefcoe, if you have changed your request from that which appears in the written submission, because from what you said it would seem that you prefer the present British law to the recommendation that appears at the bottom of page 3 and the top of page 4 of your brief. The present British law is much wider than what you have recommended in your brief.

**Mrs. Lefcoe:** It says in the brief that we seek the minimal requirements. We are starting at the bottom and working up and this would be minimal. Later on in the brief I go on to say that actually the answer is that it should be up to the woman. This appears on page 8.

**Mr. Stanbury:** Do you then agree with the Women's Liberation Group that the ideal situation would be abortion on request?

**Mrs. Lefcoe:** I think it is the only realistic approach to the problem.

**Mr. Stanbury:** It seems to me from much of the evidence we have had before us that the illegal abortion problem would not be affected very much by any other step. Is that the conclusion you reached from your studies?

**Mrs. Lefcoe:** It would be if we used the "overburdened mother" clause of the British bill, or as Mr. Herridge put it in his bill, that when you think of the woman's mental and physical well-being, if you took into consider-

ation her entire environment, her family, then I think we would agree.

**Mr. Stanbury:** Mr. Herridge's Bill is just lifted from the original British Bill.

**Mrs. Lefcoe:** Yes.

**Mr. Stanbury:** It is much the same as the present British law.

**Mrs. Lefcoe:** Yes, but the British law does not say "on request".

**Mr. Stanbury:** You put in your brief the minimum which you would like to see and you outlined in your submission what you think perhaps might now be possible but the ideal arrangement, and the one which you would really like to see, is abortion on request.

**Mrs. Lefcoe:** Yes.

**Mr. Stanbury:** And you would not limit it, either, to a certain stage of pregnancy up to three of four months.

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**Mrs. Lefcoe:** All the medical evidence points to the fact that up to three months it is a very simple and safe operation.

**Mr. Stanbury:** I am simply asking whether under our law you would limit the possibility of obtaining an abortion on request, to the first three or four or to some particular period.

**Mrs. Lefcoe:** I do not think we have any right to do this. I think the medical profession can handle that part of the question.

**Mr. Stanbury:** There would be no need for any legal or criminal restraint on abortions at any point during pregnancy.

**Mrs. Lefcoe:** Not if the doctor felt it was safe to go ahead, no.

**Mr. Stanbury:** Thank you.

**The Chairman:** Mr. Allmand.

**Mr. Allmand:** Mrs. Lefcoe, I want to return to the point that was raised by Mr. Stanbury regarding the representation of women. I have found since I have been on this Committee that as many letters have come to me from men as from women for widening the grounds for abortion and there have been just as many letters from men and women against it. When I have gone to social gatherings in the last two months I have often found that the husbands in the gatherings, when we were discussing this subject, were often more in favour of widening the

grounds of abortion than their wives. Many of these women as soon as they knew they were pregnant began to think of this foetus as their child and cared for it that way and were repulsed by any idea of abortion. I think it is a division of opinion. I do not think it is a division of men and women.

I also disagree with you that it is a matter of thinking women. You say that any women who thought about it would support your point of view and those who have not thought about it would support the other point of view. I find there are both thinking and unthinking people on both sides.

**Mrs. Lefcoe:** When I say "thinking" I mean when you really look into the problem. I knew very little about this subject at one time, but I am finding out more and more about it by reading the literature. The more you read the more convinced you become what really is the problem. I have also met people to whom every problem becomes their problem. What would I do if I were pregnant? This is not the same type of problem. You cannot look at it from a personal point of view.

Personally I may never desire, never want and never need an abortion. I am not doing this for myself. I am thinking of women who are not happily married and where a pregnancy would not mean the same thing as my pregnancies have meant to me. When I was expecting my fourth child I had an unwed mother in to assist me. We were both pregnant at the same time and the contrast was really amazing. Every bit of movement of the child sickened her. I was so exuberant and looking forward to my child while she hated the thought of hers. She never saw it, she put it up for adoption. You know what happens to children who go up for adoption. They do not get adopted that easily. These are the women that we are representing.

**The Chairman:** Just on a point of clarification, I think you credited to Mrs. Lefcoe something that actually Miss Wood said. Is that not correct?

**Miss Wood:** Yes.

**Mr. Allmand:** Many groups come before us on both sides of the question and say that they represent women. I think it is better to say that you represent one point of view. You have arguments for your point of view and they have arguments for theirs. There is a group called The Emergency Organization

for the Defence of Unborn Children and they are nearly all women.

**Mrs. Lefcoe:** Yes, I know. What else do they have in common?

**Mr. Allmand:** Excuse me?

**Mrs. Lefcoe:** They have something else in common as well.

**Mr. Allmand:** What is it?

**Mrs. Lefcoe:** The majority are Roman Catholics. I have no objection to the Roman Catholic religion, but if they feel this way it is a religious matter. A law is not supported by religious groups, a law is supported by the entire country. I maintain again that any Roman Catholic who does not wish to have an abortion need never have one, and need never be involved with one in any way.

**Mr. Allmand:** I want to go on to another point. In your brief you say that the law should not be supported on a religious basis but on a secular basis, which I suppose would be on the basis of natural justice or the common good. The general principle that underlies our criminal law is that the criminal law should protect people and property. That is not really a religious principle, it is a long-standing principle of criminal law. The people who support that principle come to the Committee and say they do not support that principle on religious grounds, they support it on the grounds that it is a matter of protecting life and property. For example, we have laws that will not allow parents to abuse their children. If through either neglect or positive action you abuse your children you can be criminally prosecuted, and I do not think anybody would pretend to assert that because you are the parents of those children you have the right to abuse them. Society has an interest in them. It is an extension of that principle, it is not a religious principle. I think where a dispute may arise is whether a foetus has the same rights; it is a living human being in the sense that as soon as a person is born they leave the mother, so . . .

**Mrs. Lefcoe:** You have asked a lot of questions. I do not know where to start. I would say first of all that it is a religiously-supported law. It is not a secularly-supported law because the majority of people who support this law are people who are trying to stop reform and they represent a religious group who believe that from the moment of concep-

tion the foetus is a human being. There is no denying this fact. The ones who are opposed are the majority.

**Mr. Allmand:** Are you contending that only Roman Catholics support that principle?

**Mrs. Lefcoe:** I am saying the greatest majority, yes.

**Mr. Allmand:** Do you think the principle in the criminal law that you should protect human life is a religiously-supported principle?

**Mrs. Lefcoe:** You are talking about life, but the Criminal Code does not refer to the foetus as being life, does it?

**Mr. Stanbury:** A child.

**Mrs. Lefcoe:** As being a child.

**Mr. Stanbury:** Yes, it does. A child that has not yet become a human being.

**Mrs. Lefcoe:** Then that is not a human being. I do not think the semantics are important here.

**Mr. Allmand:** I do not either, I think it is the principle.

**Mrs. Lefcoe:** Laws are made for the common good and for the responsible majority in a society. The responsible majority who want this law will act responsibly. Those who do not want it need not be involved in it. I do not see...

**Mr. Allmand:** But the point is that you have a human life there, even though it cannot cry out for its own protection or articulate the fact that it wants to be alive. Nobody can see it and, as you said, there is no victim. Pregnancies are not registered; only births are registered. You could have an abortion and get rid of the foetus and nobody would ever know it was missing. We are again dealing in semantics but if there is life there do you believe people should be allowed to do away with it even though nobody might know about it?

**Mrs. Lefcoe:** I do not believe it is a life. This is a religious difference, religious belief. I do not believe it is a life. I think it is a piece of protoplasm. I think it is a potential life.

**Mr. Allmand:** That is the basis of the disagreement, though.

**Mrs. Lefcoe:** I think it could well be, yes.

**Mr. Allmand:** Between you and the other people.

**Mrs. Lefcoe:** It could well be, but I do not think in a democratic society that a religious group should have the say on which way the law goes.

**Mr. Allmand:** You think it is purely a religious rather than a biological question.

**Mrs. Lefcoe:** Yes, I think it turns out to be this problem.

**Mr. Allmand:** If there is a viable life there, a human life, do you think that is a religious or a scientific question?

**Mrs. Lefcoe:** I do not really know the answer to that.

**Mr. Allmand:** But you made the statement that it was a religious point of view.

**Mrs. Lefcoe:** I say that it is the religious groups in particular who are trying to prevent reform.

**Mr. Allmand:** We had a man here two weeks ago who was the editor, I think, of the Weston Times and he said before the Committee that he had no religious background and yet he has his own personal philosophy about this matter; he felt there was human life there from the earliest...

**Mrs. Lefcoe:** I do not think he has any right to say anything about this to the Committee. He is not a woman.

**Mr. Allmand:** Excuse me?

**Mrs. Lefcoe:** He is not a woman and I really do not think he has any right to come out with statements telling me...

**Mr. Stanbury:** I consider that a fantastic theory.

**Mrs. Lefcoe:** Do you?

**Mr. Stanbury:** Yes.

**Mr. Chatterton:** We have our rights, too.

**Mrs. Lefcoe:** It really is difficult to explain to a man what it is like to bear an unwanted child or what it is like if you do not want a child to go month after month through the entire period when you can conceive worrying about being pregnant. You will never know this feeling.

**Mr. Stanbury:** That theory is like suggesting that only men should make decisions about the laws concerning alimony because they are the ones who have to pay it.

**Mrs. Lefcoe:** That may not be a bad idea.

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**Mr. Chatterton:** May I ask a supplementary. I find a contradiction here. Mrs. Lefcoe said that to her a foetus is just a piece of protoplasm.

**Mrs. Lefcoe:** Yes.

**Mr. Chatterton:** And yet you described earlier how you were overjoyed with the movements of the foetus inside your womb.

**Mrs. Lefcoe:** This was at five months or so, sure. I was also overjoyed when it was a piece of protoplasm, but I do not think that is the point. During this period when an abortion is performed, which is in the first two or three months, there is no movement.

**Mr. Chatterton:** It is only a piece of protoplasm up to a certain point.

**Mrs. Lefcoe:** It is a potential human being up to a certain point.

**The Chairman:** Are you finished, Mr. Allmand?

**Mr. Allmand:** No, Mr. Chairman. With respect to unloved children, Mrs. Lefcoe, how can you tell before birth whether a child will be loved? Witnesses who have come to this Committee have stated that many women who in the early stages of pregnancy did not want their children loved them intensely, once they were born. On the other hand, where there was no objection to the pregnancy, once the child was born conditions could change and the child could be an ugly child, and so forth and so on. Then the child could be unloved. My point is should you abort a child on the possibility that it might not be loved?

**Mrs. Lefcoe:** That it might not be loved?

No, not on that point; but on the point that the mother is incapable of giving love, yes. If a woman has eight or nine or ten children she does not have very much time to give love. The child is deprived. It should be a decision made by the woman.

**Mr. Allmand:** Eight or nine children is an extreme example.

**Mrs. Lefcoe:** I do not know whether it is that extreme at all.

**Mr. Allmand:** Would you wait that long? You were saying that you should allow it only after so many children. Most of those who have appeared have said that they want abortion available for the first, second or third child.

**Mrs. Lefcoe:** It could be. No law is going to be absolutely perfect in every way. There are going to be occasions when it is wrong and occasions when it is right; but you are making the law for the responsible majority. You can never have a law that will fit every single circumstance.

**Mr. Allmand:** We realize that.

**Miss Wood:** I would like to add that the cases you are citing are probably of women who have no recourse one way or the other. Whether, when they are pregnant, they want the child or not...

**Mr. Allmand:** Yes.

**Miss Wood:** ...they are women who have found themselves pregnant, whether they wanted to be or not, and they cannot do anything about it. When the child is born how it is going to be raised becomes apparent. That is the whole point. I do not think that kind of example is of much use here. All we ask is that women should be able to plan these things...

**Mr. Allmand:** We agree with that.

**Miss Wood:** ...and make an intelligent decision.

**Mr. Allmand:** That is right. Then, Miss Wood, do you believe that abortion should be used as a type of birth control?

**Miss Wood:** We feel that in many cases birth control is not adequate, or cannot be used at all and that it should then be a woman's right to use it as birth control.

Of course, we personally feel that other means of birth control are much better. Any woman would agree with that, I am sure. And there are many cases when they do use something besides the birth control that we already know.

**Mr. Allmand:** In other words, you say that if a woman has intercourse without taking care to practise some type of birth control and becomes pregnant, she should be allowed to have an abortion if she does not want that child?

**Miss Wood:** That is right.

**Mr. Allmand:** In other words, when she practises intercourse she should not be responsible for the pregnancy that might result.

**Miss Seese:** We are also saying that many methods of birth control do not always work.

**Mr. Allmand:** Yes; that is true.

**Miss Peggy Morton (Women's Liberation Group):** The major point here is that although we feel it is very important that the laws concerning birth control be reformed as soon as possible even when that is done there will still be cases where women cannot ensure complete planning of their families, whether or not they use birth control. For that reason, abortion is necessary if women are going to be able to plan whether or not they want to have children and when they want to have them.

**Mr. Allmand:** I will come back later.

**The Chairman:** Mrs. MacInnis?

**Mrs. MacInnis (Vancouver-Kingsway):** Thank you, Mr. Chairman.

I must say that I think the witnesses this morning have raised an aspect that has not been too frequently discussed in our deliberations. They have brought in the human situations and what this means in terms of the feelings of the women involved. Consequently, I think they are adding a good deal on this angle.

Mr. Stanbury was interested in the religious composition of your organization, Mrs. Lefcoe. I would like to ask you a little bit about the sexual composition of it. Do you have men in your organization?

**Mrs. Lefcoe:** Yes, we do.

**Mrs. MacInnis (Vancouver-Kingsway):** Are they numerous or are there just a few?

**Mrs. Lefcoe:** As I pointed out before, we have not really made an all-out membership drive. We have had only one public meeting. Of the three speakers, two were members of the Law Faculty at Western and one a psychiatrist. They spoke in favour of my group and they joined it subsequently. Sixty people became members and there were men amongst them. I do not know what the breakdown is. There may be about one-third of them men.

**Mrs. MacInnis (Vancouver-Kingsway):** In other words, you do not consider this to be exclusively a woman's problem?

**Mrs. Lefcoe:** I do, really . . .

**Mr. Stanbury:** Would you prefer that we just stopped this study, then?

**Mrs. Lefcoe:** No. I think that the woman should be heard. That is what I am trying to say. And I think there are many men who agree with us.

**Mrs. MacInnis (Vancouver-Kingsway):** My final point is that in his questioning this morning Mr. Allmand seemed unconsciously to place the whole responsibility for pregnancy on the woman involved.

**Mrs. Lefcoe:** Yes; I noticed that, too.

**Mrs. MacInnis (Vancouver-Kingsway):** Do you think that responsibility in this matter of abortion and pregnancy should lie entirely with the woman, or is it also the responsibility of the man concerned?

**Mrs. Lefcoe:** Yes; well, it depends on how you look at it. If they are unwed and the man says, "I do not want you to go through with this abortion. I want the child", I do not think he has any right to do this, unless he says "Have the child. I will take it away and you need never look at it again".

**Mrs. MacInnis (Vancouver-Kingsway):** In a good marriage relationship would consultation between parents be a normal thing both in the case of pregnancy and in the case of conception?

**Mrs. Lefcoe:** It goes without saying that in a happy marriage there is consultation about almost everything.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes; but if the marriage is unhappy and there is a case for abortion, you would put the responsibility on the woman?

**Mrs. Lefcoe:** Oh, definitely, yes.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes. If you had to choose between protecting the foetus and saving the life of a grown-up woman, which would you choose?

**Mrs. Lefcoe:** It would unquestionably be the woman, the actual living person, rather than the potential one.

**Mrs. MacInnis (Vancouver-Kingsway):** Is not this a choice that people of any religious or non-religious beliefs have to face? It is not a choice between whether you will, or will not, protect human life. It is not a choice between right and wrong. Is it not a choice between right and right? In other words, somebody or something has got to have precedence in this matter of abortion. In many, many cases would it not be true to say that you cannot look after the well-being or the health of the woman except at the expense of the foetus?

**Mrs. Lefcoe:** That is one way of looking at it.

**Mrs. MacInnis (Vancouver-Kingsway):** And a conscious choice must be made in those cases.

**Mrs. Lefcoe:** Yes; unquestionably, the actual living person takes precedence.

**Mrs. MacInnis (Vancouver-Kingsway):** Your organization would say that.

**Mrs. Lefcoe:** Oh, yes.

**Mrs. MacInnis (Vancouver-Kingsway):** And you women would also agree to that?

**Miss Wood:** Yes.

**Mrs. MacInnis (Vancouver-Kingsway):** If you could have the type of legislation that you really wanted, would all of you say that a woman should have the right to get an abortion on demand up to three months of pregnancy?

**Mr. Stanbury:** They have answered that.

**Mrs. Lefcoe:** I would leave this up to the doctor.

**Mrs. MacInnis (Vancouver-Kingsway):** You would leave it to the doctor?

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**Mrs. Lefcoe:** Yes. I know it is definitely a more dangerous operation after the fourth or fifth month but if the request was reasonable and she really needed to have it done then a doctor should recommend it.

**Mrs. MacInnis (Vancouver-Kingsway):** Having regard to the existing state of public opinion in Canada, how far, in your opinion, could this Committee go in making its recommendations?

**Mrs. Lefcoe:** I think. First of all, may I say, in answer to something that was said previously, that by their silence women are agreeing with the need for change. Normally, where you have a proposition that is suddenly going to change something all those against the change will rush in with letters and requests; but all those who are quite happy to have you do this will usually sit back—except for people like myself and these girls and others. Therefore, I think that by their silence they are agreeing with you.

I do not remember the question now.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes. I asked how far you thought we could go in our recommendations.

**Mrs. Lefcoe:** Yes; well, I would support the British Bill.

**Mrs. MacInnis (Vancouver-Kingsway):** The British Bill?

**Mrs. Lefcoe:** Yes; I think we could take in the social clause. This would end a great many of the illegal abortions that take place.

**Mrs. MacInnis (Vancouver-Kingsway):** Do you think that if we asked for that we could get it in Canada at the present time?

**Mrs. Lefcoe:** I do not see why not. It is realistic.

**Mr. Allmand:** You do not have rape or incest included in this Bill.

**Mrs. Lefcoe:** This would come under the clause dealing with mental and social wellbeing.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes; that would cover it. Do you other women agree with Mrs. Lefcoe? Do you think that Canadian public opinion would go that far?

**Miss Seese:** Perhaps I could cite a couple of things that have happened to us in Toronto since we started this brief. First of all because women are women and are raised to feel that they are intellectually inferior, emotional and illogical, and so on, it is very difficult for them to speak out about what they feel, especially when all the established centres of power, from Parliament to those in the various professions such as lawyers, doctors and psychiatrists are overwhelmingly male. It is very hard for women to feel confident enough in themselves to speak. It is very hard for us to do this. I do not know about Mrs. Lefcoe, but many of our members were unwilling to come because they did not feel that they were confident enough to speak before this Committee and I think, for this reason, we cannot quite say what the feelings of the majority of the women are. We have been to two different panels in the last two weeks in Toronto, one of which had members of the Emergency Organization for the Defence of Unborn Children and the opinions ranged from—and these were all predominantly male panelists—leaving the law as it is to complete abolishment of the law. The audiences were overwhelmingly female, although the panels were not sponsored by female organizations; they were predominantly male organizations that sponsored the panels. The audiences were also overwhelmingly in favour of the stand which we take that women should be able to have abortion on demand.

Perhaps one can say that the people who came to these panels were prejudiced and that is why they came, but these were people

we did not know, at least on the whole. On the other hand, members of the Emergency Organization for the Defence of Unborn Children of course tried to get their members out, too. So, this is one indication we have; and from watching the letters in the *Toronto Star* we notice that many women are for abolishment of the law or abortion on demand. Although we have not taken a poll of the entire nation, I think that I would agree that women who are silent perhaps would be for it. What we are saying, of course, is not that anyone is to be forced to have an abortion. I think people keep making it a black and white situation—that we are telling people to have abortions; of course we are not at all. I think it depends on what Canadian opinion you are talking about. If you include males and females, at this time it probably could not support more than the British law.

**Miss Morton:** I would like to make another comment. I think the most telling statistic, when we are talking about public opinion, is the number of women who risk their health and sometimes their lives by going to illegal abortionists. Figures vary and it is very difficult to make an accurate estimate, but there seems to be general agreement on a figure somewhere between 200,000 and 300,000 a year. I think that statistic is significant in that it shows—and my experience with people in this situation has been—that when they face this situation, it is no longer a question which they can discuss as it has been discussed here. For many of them there is no alternative. They are desperate and the only thing they can do is have that abortion; they cannot carry a child. That is how they feel, and many women will risk their lives. If you speak to doctors about the numbers of women who are admitted to hospitals daily in this country who have just either tried to abort themselves or have just been aborted in a very unhealthy and unsanitary situation, I think that statistic shows that many, many people in society, when it comes down to this actual situation, do in fact choose abortion and would be in favour of a law which would go so far as to ensure that no one need risk her life and need go to an illegal abortionist any more. I think that we could support that kind of law.

**Mrs. MacInnis (Vancouver-Kingsway):** Could I ask Mrs. Lefcoe: do you have the feeling that there is much in the argument that if we got a broader law, women would abuse it? I have had some people tell me that

women would rush along to get abortions regularly every year or something like that.

**Mrs. Lefcoe:** I do not think abortions are had for fun. I do not think anyone enjoys surgery. I do not even like going to the dentist and I surely cannot imagine any woman not practising birth control. I think abortion is sort of a follow-up when everything else has failed. I have also heard the argument that people will become promiscuous if abortions are permitted. Well, if they have not become promiscuous with the advent of birth control measures, then abortion is not going to change it.

**Mr. Cowan:** Might I ask if you saw the statement from Scarborough that they have the highest venereal disease rate they have ever had in Scarborough now?

**Mr. Stanbury:** I rise on a question of personal privilege.

**Mr. Cowan:** That may be, but I am referring to something that happened when you were at the United Nations.

**The Chairman:** Mrs. MacInnis.

**Mrs. MacInnis (Vancouver-Kingsway):** May I ask one further question. It has been made clear that there are certain religious groups who are a factor in delaying the changes in abortion laws. I would like to ask Mrs. Lefcoe, Miss Wood or the other ladies, what other kinds of opinion are holding us back, or have held us back thus far in getting any attention to this problem? Mr. Stanbury indicates that this has just suddenly come up. What other factors are holding back, or are likely to hold back our getting the modernization of the abortion laws, other than religion?

**Miss Wood:** I think you would agree that women's sexual freedom is one of the points behind all these laws. It has always been a tradition of Western civilization—of most civilizations—that the predominantly male law makers, and male public opinion, do not like the idea of women being freed from the responsibility, usually because of the family system and of their wanting proof that a child is their child. But also, whether this is completely religious or just cultural reasoning, there is the moral situation and as we say in our brief, women are their brothers' morals keepers. We all know that men's morals can in fact be something quite different from women's morals, because they cannot be held responsible and women can, of course.

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**Mr. Lefcoe:** I think that one hindrance to changing this law or possibly any other law would be general apathy on the part of voters. The reason I am here is that I believe very strongly in a democratic society, in not only the rights and the privileges but also the responsibilities that come with it; and not too many people do. You can really sow the seed of totalitarianism if you do not speak out. I think this is probably one of the hindrances to law changing.

**Mrs. MacInnis (Vancouver-Kingsway):** These other ladies?

**Miss Seese:** I think another thing is what we might call the male ego or threat of loss of virility. I speak from several years' experience with what we would call poor people who have on the whole very large families, and in attempting to introduce birth control methods I have found without fail that the women are 100 per cent for taking birth control measures and that the men are about 75 per cent against. We find that these people, who are too predominant in our society, do not really have a part in making decisions although they can vote, are forced to live in very squalid conditions and that the male especially feels that he is not very worthwhile. This can apply, not only to poor men but also the middle class and the upper class males. The poorer man does not have much of the material goods of life and in order to feel proud of himself he needs to point to the number of children which he can have. In many cases, the wives of these men have said: "If I practise birth control and do not have any more children, my husband will go elsewhere to produce more children because this is very important to him." I think this is the extreme in lower classes but is also extremely important to middle classes especially in view of passing on property rights, which has been by the male lineage.

**Mrs. MacInnis (Vancouver-Kingsway):** Did you want to say something on that? Oh, she said it. Thank you.

**Mr. Knowles:** Mr. Chairman, as usually happens at this stage, everything has been asked and said. Perhaps I might make the comment that I am sure that when these ladies go back to their organizations, they will be able to assure their sisters and brothers that appearing before a parliamentary committee is not so bad after all.

**The Chairman:** They are not finished yet, Mr. Knowles.

**Mr. Stanbury:** They may still be exposed to Mr. Cowan.

**Mr. Knowles:** I had forgotten that Ralph Cowan had arrived. Oh, well, we have him under control.

**Mr. Stanbury:** He is an optimist, is he not?

**Mr. Knowles:** I must say that I speak, of course, as one who favours fairly wide liberalization of our laws in the abortion field. It would be pretty difficult for us to make a decision on the basis of the sex, religion or other circumstances of the people who appear before us, as people have pointed out. Some women come to speak against abortion. Some men come to speak for it. Some people who claim to be non-religious come to speak against abortion. We have had at least one religious delegation speak in favour of improvement in the laws. I am referring to the Presbyterians—that is the church that Ralph Cowan belongs to—who have limits to which they would go—

**Mr. Stanbury:** They are not all like Ralph, of course. I should say we are not all like Ralph.

**Mrs. MacInnis (Vancouver-Kingsway):** Provoking.

**Mr. Knowles:** There are those who regard the foetus in its early stages as only potential life, as protoplasm, who nevertheless are opposed to abortion. There are others who regard it as life right from the moment of conception who agree that there is a case, in some instances, for abortion. It is very diffi-

cult for us to make a decision on that basis. I do think that some things you have said this morning are quite correct. We are all aware of the fact that those who write to us are more or less evenly divided, whatever their background, but I think there is a good deal to what you say about the fact that not very many are writing us.

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**Mrs. Lefcoe:** I think you can hear them being quiet.

**Mr. Knowles:** Yes. If I may introduce a subject that produced some heat a while ago when the question of capital punishment was up, those who did not want that law changed wrote us. I voted for it to be changed. This

issue of abortion is in the press every day. We have the best attendance of the press of any committee. It is a most interesting subject. It gets into the paper every day but we are getting very few letters. I think you are right in that if people, women in particular, really felt that we were making a mistake to be considering this at all, they would write us in much greater numbers than they do. Maybe I am making a mistake in mentioning this. We may start to get some letters now.

**The Chairman:** May I say that as Chairman of the Committee I have received some 400 hundred letters which—

**Mr. Knowles:** Which way?

**The Chairman:** Both ways.

**Mr. Knowles:** Both ways. More or less even?

**The Chairman:** I am not sure. Perhaps we should count them up sometime and tell the Committee what they are but I am not bringing all the letters. Most of them are very brief and just say: "I support such and such", or "I am against such and such." The Clerk of the Committee has all the letters and we will bring them down sometime. So there are letters coming in.

**Mr. Knowles:** Do you not agree, then, that we have to try to reach a decision, not on the basis of what organization or what person or what group comes before us with a particular view, but on what seems to be logical, right and fair? I like to quote the Presbyterians because I was so pleasantly surprised with their brief the other day. They took the position categorically as religionists that life begins at conception. Some people who take that position say that therefore you cannot abort. But having taken that position, the Presbyterians nevertheless said that there comes a time when you have to decide between the right of a potential human being and the right of the mother. Is it not in that light that we have to come to our decision?

**Mrs. Lefcoe:** Yes, and you also come to a decision through the scientific evidence that is available. When I became interested in this problem I went to the university library for literature on abortion. The periodicals have many, many articles and I have all sorts of books that I would be glad to have you read. Nine-tenths, or 99 out of 100, point out the fact that there is need for reform. In the countries that have had reform, the results and the evidence are there. I think

this is what you base much of your decision on. Of course, you have the advice of the people of Canada, too, but this is very important. We learn from the experience of others.

**Mr. Knowles:** The only other point the delegates have made this morning that I would like to underscore is that people like you who are seeking reform in the abortion laws are not seeking to make abortion compulsory. You are merely seeking that it be permissive.

**Mrs. Lefcoe:** Yes.

**Mr. Knowles:** I think that sometimes those who come and speak against it out and out give the impression that we who are on the other side favour a law that would compel people to have abortion. But I think it must be said that every group or every person who advocates some modernization of the law quite clearly would not require anyone to have an abortion or require any doctor or nurse to participate in such an operation.

**Mrs. Lefcoe:** I think this should be included in the legislation when it finally becomes law.

**Mr. Enns:** I have a supplementary question, although I really do not want to take any more time. Have you as a group had any representations made to you from those persons who fear that this makes abortion mandatory, that the proposals you are putting forward are going to be considered mandatory? One of the witnesses said that some people fear that abortion is going to be compulsory and therefore are against it. Do you think that if they understood that it was not compulsory they would accept it, although not for themselves?

**Miss Seese:** No. On the one hand they accuse us of making it compulsory, which we are not, and on the other hand, they, in their position, say that it must not be allowed, they are in fact imposing their will on everyone.

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**Miss Wood:** It obviously cannot be made compulsory. Even today the law against it cannot be enforced and women will get abortions if they need them.

**Mr. Enns:** Yes, and there still will be children available for adoption and plenty of handicapped children with whom we will have to struggle. It will not eliminate all the problems that were mentioned in earlier briefs.

**Miss Wood:** No.

**Mrs. Rideout:** I think most of my questions have been covered, Mr. Chairman. I was particularly interested in the one Mrs. MacInnis asked, whether the representatives here today felt that any widening of the abortion laws would result in abuse of the law, and the witness answered the question to my satisfaction. Thank you very much.

**Mr. Rock:** Mrs. Lefcoe, you stated that you had only one meeting at which 100 people attended and about 75 of those joined your group.

**Mrs. Lefcoe:** Yes.

**Mr. Rock:** Then when did your membership approve and adopt your brief?

**Mrs. Lefcoe:** Very recently. A few weeks ago I read the brief to a church group that I addressed on a Sunday morning. I left a piece of paper in the back of the hall and asked anyone who agreed with the brief to please sign it. Sixty-five people signed and this is how our membership has grown.

**Mr. Rock:** What church group was this?

**Mrs. Lefcoe:** I addressed the Unitarian Fellowship of London. We have not yet really gone out and spoken to other groups.

**Mr. Rock:** You gave examples of the poverty that presently exists in parts of the world such as South America, Italy, and so on and have explained the plight of the pregnant women in those areas. Surely you do not feel that the same situation exists here and that for the same reasons we should liberalize our abortion laws?

**Mrs. Lefcoe:** Poverty does not exist to the same degree in Canada but it does exist here. I think ignorance exists. I think women have too many children in some cases because of ignorance.

**Mr. Rock:** You are confusing ignorance and poverty.

**Mrs. Lefcoe:** I think they are the same. I think the peasant who lives in the slums is ignorant.

**Mr. Rock:** I have seen a lot of well educated people hit with poverty and it had nothing at all to do with ignorance. I know of a case where a person had two legs cut off in an accident and because the person who caused the accident could not pay compensation he

had to go on social welfare. This person is in a poverty-stricken category but he still is an intelligent person.

**Mrs. Lefcoe:** By "ignorance", sir, I meant ignorance of birth control, and I think this exists here as much as it does in South America. Women are ignorant of what can be done to prevent birth.

**Mr. Rock:** Mrs. Lefcoe, to a certain extent you also have blamed child delinquency on ignorance when other factors may have been involved. You have heard of juvenile delinquency in the richest areas of Canada as well as the poorest.

**Mrs. Lefcoe:** Yes, there can be unloved or unwanted children in rich homes as well, sir.

**Mr. Rock:** Yes. That was very well put.

Miss Wood, on page 4 of your brief you stated:

The bureaucracy and controversy present in this type of system has proven the method to be extremely unsatisfactory in Sweden. Illegal abortions are still performed there for women whom the board rejects. Because of the proceedings she has gone through, the abortion is often obtained late, frequently in the 4th and 5th month.

In other words, they obtain illegal abortions in Sweden even though their cases are rejected by the board. You also stated on page 6:

We think that every woman has every right to decide to get an abortion and every right to get it done by a reputable doctor in a decent hospital.

Do you believe that abortions should be given on demand and that this is a woman's right?

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**Miss Wood:** Yes.

**Mr. Rock:** Then, do you feel, if our Parliament were to endorse a complete open-door policy and were to amend the laws, that a woman should have the right, whenever she feels like it, to have an abortion and that this would reduce the dangers of death or the hazards of health that now exist as a result of women having gone to these quacks or back-door abortionists? And would it also practically reduce to nothing the existence of those illegal abortionists whom we have today in Canada?

**Miss Wood:** Yes, undoubtedly. This is what we were trying to point out in our references to Sweden and other countries which have semi-reform. If it is not completely open, if it is not open to unmarried women except those who have a serious health problem, illegal abortions will go on.

**Mr. Rock:** Do you feel that there are a lot of single girls in Canada who have this problem? Usually we get statistics on married women but we do not have too many on single women. Since you people represent the single girls, could you give us the information you have in this regard?

**Miss Wood:** There are no statistics available.

**Mr. Rock:** But you may have friends within certain circles who have had problems and I think this Committee would be happy to have some facts. You do not have to give names. We would just like to hear of some of the problems about which you have knowledge.

**Mr. Cowan:** Speak for yourself.

**Mr. Rock:** I know of some past cases in my area.

**Mr. Cowan:** I will take the names.

**Mr. Rock:** In one case years ago, the woman died; she gassed herself for this reason—and in those days it was poisonous gas, not natural gas. In another case a woman was found in the back lane of her house after an illegal abortion. This is why I asked if you knew of any cases. I think you said in your brief that there were 800 deaths in Canada due to illegal abortions.

**Miss Wood:** That was an estimate by Dr. Morgentaler, who appeared before this Committee earlier, of the number of people who died in one year from illegal abortions. Miss Bradford would like to speak on this.

**Miss Bradford:** I was a community and youth worker with the Company of Young Canadians for a year and what I saw done by coat hangers, stupid knitting needles and things like that made me very angry. This was among young girls and people like ourselves.

**Mr. Rock:** You are speaking of young girls performing abortions on other girls or other women?

**Miss Bradford:** On themselves, and there were women who would do it for them for \$5. What can you do? All I could do was to get angry or come here.

**Mr. Stanbury:** May I ask a supplementary question?

**Mr. Rock:** Yes.

**Mr. Stanbury:** In your experience with these people, if they could have gone to a doctor and had an abortion performed properly in a hospital for \$100, would they have done that or would they still have attempted to do it themselves?

**Miss Bradford:** No, they would have found the money and had a doctor do it because they would have learned from friends who would have gone through similar situations themselves—maybe from an 18 year old expecting her second child. I could relate cases ad infinitum of kids whom I know and it just makes me furious.

**Miss Wood:** One hundred dollars is really a lot cheaper than the \$400 to \$500 which it costs now, provided you can find a doctor to do it.

**Mr. Stanbury:** I am sorry that it is so often the case here that when one tries to get information one seems to be critical. I am not being critical of your point, as one of those responsible for redrawing the law I am trying to find out what will work and what will not.

I am also interested whether or not these cases would involve the kind of mental tur-

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moil a doctor would consider to be a threat to the girl's mental health. If so, it would come under the British law.

**Miss Wood:** It depends on the doctor.

**Mr. Stanbury:** My point is this. Does the British law really assure a girl any help in such a case because it still requires the finding by two medical practitioners that the continuance of pregnancy would involve risk to her life or injury to her physical or mental health greater than if the pregnancy were terminated?

**Miss Wood:** This is exactly why we are against a board of doctors, psychologists and lawyers deciding these things.

**Mr. Stanbury:** But you are also against the British law for that reason?

**Miss Wood:** Because it would have to go through that kind of board.

**Mr. Stanbury:** No.

**Miss Wood:** Because a doctor...

**Mr. Stanbury:** The British law just requires two doctors.

**Miss Woods:** All right, two doctors.

**Mr. Stanbury:** But it is still on the basis of health.

**Miss Wood:** Let me finish. A doctor will have his own moral thinking on a case that comes to him. If it is a single girl he may feel that she should not have an abortion but that she should learn through her mistake. This is no exaggeration. We know this is true. A doctor by the name of Van Wijck at the University of Toronto was quoted in the weekend *Telegram* last week. He is the head of a family planning clinic at the Toronto General Hospital and he was quoted as saying that he did not approve of single girls coming in for birth control. He did not think they should be allowed to have such things. What kind of opinion is that kind of doctor going to have in the case of abortion, let alone birth control.

**Mr. Cowan:** May I ask the witness if she knows that Dr. Van Wijck's grandfather was a Presbyterian minister?

**Miss Wood:** Was he?

**Mr. Rock:** I have not finished. Miss Bradford, you said you knew of many of these cases personally. You do not have to mention names, but I think it would be a good idea if you could give this Committee some statistics on single girls and the plight with which they are sometimes faced. Could you tell us from your experience, in relation to single girls who have had unwanted pregnancies how many of them went through with it, how many did things to themselves and how many went to an abortionist?

**Miss Bradford:** I think Miss Morton could give you more accurate figures. I can think of five in those categories.

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**Miss Morton:** I think I would have personal knowledge of at least several dozen single women who either have had abortions or have carried their babies. Most of these girls were fortunate because they were middle class girls—often students, although not always—who did not have to subject themselves to the kind of illegal abortion that Miss Bradford was speaking about but who could go to a doctor for \$400. or \$500.—which is illegal of course—and with some measure

of safety for their own health. For these women, of course, there was the financial strain of spending this much money and the fact that they were risking imprisonment if they were found out, but they were the lucky ones who knew who to see and who to ask to find out about getting an abortion, but there are many more who either did it themselves or carried their babies. Most of the people I know who have had the child rather than terminate the pregnancy would have much preferred to terminate the pregnancy. They found that a very difficult thing to do. They also found it very difficult to give up a baby which they cannot keep, because they have no guarantee that the baby will have a home, and a decent home.

I think this is a widespread problem among single girls. However, I do not think it is as severe as it is among married women. Most of the statistics that I have seen have been American statistics and I do not know how comparable they are to the situation in Canada but I would guess that the figures are reasonably accurate. I would say that somewhere around 70 per cent of the women who have abortions are married women and about 30 per cent are single women, so the problem is obviously a very severe one in both cases. I am afraid that I do not have much information on single women from poor families who would not have the money, even if they had the information about how to get a safe illegal abortion. I think for those women the problem is even more severe.

**Miss Seese:** Could I add an addendum? During the half hour that we waited for the train to come to Ottawa last night we ran into a friend of ours who was travelling to obtain an illegal abortion as a single girl. I am sure that I alone can think of three dozen women in the last year who have either have had an illegal abortion or who have had illegitimate children and given them up or kept them.

**Mr. Rock:** You mentioned that illegal abortions cost between \$400 and \$500. If abortions were made legal what do you think doctors would charge?

**The Chairman:** I do not think this is relevant.

**Mr. Rock:** I think it is, Mr. Chairman. The fact is that because they are illegal abortions the medical doctors or the back street abortionists charge \$400 and \$500. If abortions were legalized, do you feel the price would be

that high or would it be around \$100, which is the charge for many other small operations that are performed.

**Miss Seese:** A large part of that money is for police protection.

**Mr. Rock:** Yes, I would not be surprised, or it is for their own protection. They are gambling on something so they have to charge a prohibitive price.

**Miss Morton:** The operation is very simple. I think it usually takes about an hour or an hour and a half. It is essentially the same as a D & C, which is carried out in a hospital. This is not a difficult operation, it is quite routine, but perhaps this is not the time to comment on fees of the medical profession, which I think are generally too high. However, I should think the cost factor would be minimal, especially if Parliament sees fit to introduce Medicare sometime this year.

**The Chairman:** I was going to say, Mr. Rock, that a therapeutic abortion is a recognized medical practice and it carries a certain fee which is listed in the fee schedule. I will be glad to show it to you.

**Mr. Rock:** I would like to see that.

**Mrs. Lefcoe:** May I please add something to this? As a single girl my first experience with abortion was when I was a student nurse. I was eighteen at the time and the young girl who almost literally died in my arms was seventeen. She had used a knitting needle and she bled to death. I was on the emergency ward that day. It was a ghastly experience. I also saw the foetus that was passed. I was very impressed by this because I had never even thought about it before.

After getting married and being concerned with my own four children I forgot about this problem for a while until I had this unwed mother who came and helped me for a few months. As I got to know more and more people in the medical field—my husband is a doctor—I heard more and more stories and this is what led me to look into this problem. I now receive telephone calls from women from all walks of life asking for my advice or if I know the name of a doctor in another city, and this type of thing. It is awfully difficult when you know the people involved and you know the circumstances, and you know there is nothing you can tell them except, "For heaven's sake, do not go to

that guy who cleans streets in the summer-time", because there is one like that. You just have to advise them to see their doctor.

• 1250

**Mr. Rock:** Now you can understand why I wanted some of this type of information that is not included in your brief. It shows the Committee members that you have a personal interest in this matter and have had some experience in the past with it.

**Mr. Knowles:** The time for us to act is now.

**Mr. Rock:** That is right.

**The Chairman:** Apropos of the brief, as I mentioned to the Committee, I have been in touch with the Dominion Bureau of Statistics concerning this figure of 800. They have not given me all the figures I asked for, but as an example the number of maternal deaths for the year 1965 attributed to abortion was 14. It nowhere approached the 800 figure. However, we are going to get more detail on this.

**Miss Wood:** Dr. Harley, do you think those statistics are correct?

**The Chairman:** They are the causes of death which are listed on death certificates. I would expect they are correct. Otherwise this would mean that a doctor would have to falsify a death certificate. I think this is unlikely in that he would have nothing to gain by such a procedure.

**Miss Wood:** How many were listed under straight miscarriage, natural abortion?

**The Chairman:** None at all.

**Mrs. Lefcoe:** The obstetrical text book that I mentioned before goes into this too and mentions the fact that you cannot really tell the number that died from illegal abortion as such, because you have to take into account all those who died of haemorrhage, all those who died of other causes that may have been caused by the sepsis caused by the knitting needle, or whatever it may be. Therefore, it was almost impossible to come to a conclusion about what the illegal death rate was.

**Miss Morton:** Last week I was at a meeting at which a Dr. Milligan in Toronto spoke. His estimate, which he got from estimates of the police department, was about 80 deaths in 1965 or 1966, the last year that they had figures for them, in Metro Toronto alone. One always has to be careful about statistics,

because it is such a difficult thing actually to be able to pinpoint, but I think the death rate is much much higher than those statistics would indicate. Comparable estimates in the United States back up that 800 figure if we can assume it is going to be somewhat the same in those two places.

**Mrs. Lefcoe:** And how many women die years later as a result of the . . .

**Miss Seese:** And how many were sterilized in the process?

**Mr. Cowan:** They all die later.

**The Chairman:** May I just point out that if 80 deaths are known by the police department to be caused through abortion, surely they would be listed on the death certificate as such.

**Mr. Stanbury:** This is very confusing, Mr. Chairman, because one of the doctors who appeared here said that last year there were no deaths in Ontario from abortion.

**Mrs. Lefcoe:** He meant therapeutic abortions.

**Mr. Stanbury:** I think not. If I remember correctly, and subject to correction, his point was that the increased use of birth control measures seems to be cutting down the problem of illegal abortion.

**Miss Seese:** I take it you did not see the movie "Warrendale", then?

**Mr. Stanbury:** I beg your pardon?

**Miss Seese:** The movie "Warrendale".

**Mrs. Stanbury:** Well, I am speaking of a doctor who appeared before the Committee, one of the doctors who spoke in favour of reform. It was just mentioned in passing.

**The Chairman:** I think he said that maternal mortality from abortion for that year in Ontario perhaps was zero.

**Miss Seese:** We could name more than zero persons we know of who have died in the last year from abortions.

**The Chairman:** I think this is an argument that really is getting nowhere.

**Miss Morton:** There have been two listed in the papers in the last two weeks in Toronto.

**Mr. Rock:** Miss Wood, would your group like to see the most liberal laws possible, or else have a referendum amongst women?

**Miss Wood:** Yes.

**Mr. Rock:** So women themselves would decide either that, or that we decide to have the most liberal laws possible so women can have abortion on demand?

**Miss Wood:** Yes.

**Mr. Rock:** And Mrs. Lefcoe, do you go so far as to recommend abortions on demand? You have said that you support Mr. Herridge's Bill which is something close to the Bill in Great Britain. In fact, Mr. Herridge has stated many times that he just copied the British Bill, he thinks this is what should be here and that is it. Would you rather have a more open-door policy.

• 1255

**Mrs. Lefcoe:** I do not think it can be any more open than it is.

**Mr. Rock:** Well, it is ambiguous in a way; the doctor would still have to play around with words.

**The Chairman:** That is not my interpretation of the English Bill; it is subject to interpretation.

**Mr. Stanbury:** We have the bill as part of our record. We need to draw our own conclusions. I agree with Mr. Rock that it is certainly not abortion on request.

**Mr. Rock:** No, it is not. It can be used as such, and you would have to take a doctor into court to prove that he was wrong in giving an abortion at times, and I think this would be difficult. Still, it is not exactly abortion on request but it could be used as such, and Mrs. Lefcoe's group would prefer Mr. Herridge's Bill which is the same as the British Bill. But would you want to go further and have, say, a complete open door policy; that is, abortion on request, period?

**Mrs. Lefcoe:** Yes, and I really think the British Bill does this. The women requesting an abortion has a reason, a social or medical reason, but a reason; and it is inclusive in my mind in that Bill.

**Miss Morton:** May I make a comment? It seems to me the problem involved here, from my experience with many doctors, is that because they do not personally approve of abortion, they will not, in many cases, even give birth control information to a single woman though they know she may go on and risk pregnancy as a result.

When we are dealing with this situation in the medical profession, we want a law that will not give so much power to a doctor who

might feel a little timid about it and wonder whether perhaps is it not strictly according to the law. We do not want a law that he is going to have to bend a little or interpret, because that situation will result in a girl or woman having to go from doctor to doctor in order to get an abortion.

It is a very difficult experience, especially for a young girl, who may simply give up and find a back-street abortionist instead. We want a situation in which she will suffer the minimum psychological damage in this situation, in which it will be easy for a doctor to say yes, this is strictly a legal thing to do, where he is not going to have to interpret the law because that much responsibility and power is not given to him.

**The Chairman:** Thank you, Mr. Cowan?

**Mr. Cowan:** Mr. Chairman, the lady in the mulberry—Did I hear you say that women are raised with an inferiority complex?

**Miss Seese:** I said women are made to feel that they have inferior intelligence; that they are more emotional than intellectual. This is from the day one, all the way through college. Even though several of us have university degrees, we have found in the classroom that the opinion of men is more often respected than the opinion of women, because they are men. We have found it is much harder for women to get into graduate school than men; that many times women need a higher grade average than men, especially for medical school.

**Mr. Cowan:** I thought you said that they are raised with an inferiority complex. You have never met any of my three daughters, I take it?

**Miss Seese:** No, I did not say an inferiority complex. It might be different if you had two daughters and one son.

**Mr. Cowan:** I have three daughters and one son. I am sorry you never met Mr. Sherwood Rideout; he used to be an M.P. here before his wife. You would have had an opportunity to see how an inferiority complex rested in that connection.

One other question only. Are you from Toronto yourself?

**Miss Seese:** Not originally.

**Mr. Cowan:** But you are residing there now?

**Miss Seese:** Yes.

**Mr. Cowan:** In answer to Mr. Rock regarding the \$400 or \$500 fee asked for some of these abortions, did you say that the bulk of that is for police protection?

**Miss Seese:** Yes, I did.

**Mr. Cowan:** Do you mean the Metropolitan Toronto police? Who gets it? That is what I am interested in.

**Miss Morton:** We are not sure.

**Mr. Cowan:** Well, when you said "for police protection" you meant the police department in some way gets this money?

• 1390

**Miss Morton:** I am aware of cases in which an abortionist—a doctor—known to be giving abortions to women who has suddenly closed up operations for a while has reopened. The rumours have been—and in some cases he has said as much to people—that the police are on to him. After he reopens operations he charges an additional \$100. I cannot say for sure that the police get that money. On the other hand, it looks like a distinct possibility to me.

**Mrs. Lefcoe:** I think it is a known fact that police do close their eyes in other places to the good abortionist and I would imagine they are paid for this in order to keep women from going to the bad abortionist. Possibly there are abortionists who are doctors or non-doctors too that are good. This has been stated in Los Angeles. It certainly is true in New York.

**Mr. Cowan:** Well, because of my age I said that. Do you girls feel that we should protect these kind of police to the point that if anybody kills them they will be executed but if they are still in the business they will not?

Just one other question to the lady in green; I was not here when you were introduced.

**The Chairman:** Mrs. Lefcoe.

**Mr. Cowan:** You are married to a medical doctor?

**Mrs. Lefcoe:** Yes.

**Mr. Cowan:** Do you agree with the witness to your right that the doctor's fees are altogether too high?

**Mrs. Lefcoe:** My husband is on the university staff so I do not agree.

**Mr. Cowan:** I did not want to put my finger on any disagreement in this nice...

**The Chairman:** The question is not relevant anyway, Mr. Cowan.

**Mr. Cowan:** I just wanted to ask that question. I have no further questions.

**Miss Wood:** Could I ask Mr. Cowan a question?

**The Chairman:** That would be very irregular. Maybe you could ask him after the meeting.

**Miss Wood:** I just wanted to know why he thinks this subject is so funny.

**Mr. Cowan:** Do you wish me to become serious, my friends? I can keep you here the rest of the afternoon.

**Mr. Stanbury:** Mr. Cowan can be very serious and you should be happy that he is being funny this morning.

**Mr. Cowan:** Thank you, Bob.

**Mr. Stanbury:** May I follow up on one point Mr. Cowan raised, because I am concerned about an impression being left without some substance to back it up. Do any of you have any specific information about any payoffs to police?

**Mr. Cowan:** Mr. Chairman, Mr. Stanbury said that I raised it; I just put my finger on it, I did not raise it, Bob.

**Mr. Stanbury:** No, I realize that. I was going to ask about it myself because I think we should be clear up whether you have specific information about any such payoffs or is this just an opinion?

**Mr. Cowan:** Thank you, Bob.

**Miss Morton:** That is my opinion.

**Mr. Stanbury:** You have no specific information on which to base it?

**Miss Morton:** I gave the information that I had earlier.

**Mr. Stanbury:** But you mentioned you did not know whether or not in that case there was any payoff. Then I gather you know of no cases of payoffs?

**Miss Wood:** Naturally, we do not have any proof of that.

**Mr. Stanbury:** I do not wish that you either have or have not; I am just asking whether or not you have because a statement has been made that some of the fees of illegal abortionists go to police in Toronto and I think it should be cleared up whether or not you have any specific information.

**Mr. Cowan:** That is right.

**Miss Seese:** None of us have ever seen the money handed from the abortionist to the police.

**Mr. Stanbury:** Well, please do not...

**Miss Seese:** There are many things that people know about that...

**Mr. Stanbury:** ...misunderstand the purpose of my question. I think it is only fair at a public hearing to make sure we do not leave an impression not supported by facts. I do not particularly want to have them here, but I think if you have those facts you owe it to someone to report them.

**Mr. Rock:** Actually the reputation of the police force of Toronto is at stake right now, in view of this statement that was thrown in.

**Mr. Stanbury:** I do not mean to badger you about it. I simply want you to be fair and the Committee to be fair at this hearing.

**Miss Morton:** I am sorry. I thought I had made myself clear. I only know of situations in which such a thing is rumoured. You know, very often things are said that may very well be true but there is the possibility that they are not true. This is a rumour that I have heard.

• 1305

I do know for a fact of one case of a man performing abortions who did tell someone that he thought the police were on to him. He stopped performing them and when he started again he was charging more money. Now, it is quite possible—at least it is within the realm of possibility—he was doing this simply to protect himself; to salt away more money in the bank. It is also possible that he was giving money to the police department. I have never seen these transactions. I have no proof of them.

**Mr. Stanbury:** No one has ever told you that he is paying off police?

**Miss Morton:** People have told me that they think he is paying off the police.

**Mr. Stanbury:** All right. Is he still performing abortions?

**Miss Morton:** At the present time I am not sure.

**Mr. Stanbury:** Would you not feel it your duty to report a situation like that to the police?

**Miss Wood:** No.

**Mr. Stanbury:** If you thought he was paying off police you would not feel it your duty to report that to police authorities?

**Miss Wood:** Our duty is more to the girls who need that good abortionist to go to.

**Mr. Stanbury:** Oh, he is a good abortionist. I see.

**Mr. Cowan:** Are there such things, Bob?

**Mr. Stanbury:** I guess somebody has to make that judgment if you feel that...

**Miss Seese:** Well, let us say he is a medical doctor and not a street cleaner.

**Mr. Allmand:** When Mrs. MacInnis was asking her questions she asked whether, if it came to a case where you were balancing the life and health of a living woman against the life of the unborn child, you would not give preference to the life and health of the living woman and you said, yes. I think most people would agree but with the witnesses before us today, Mr. Chairman, that really is not the question because they are suggesting abortions in cases that go much beyond the case where a mother's health and life are in danger. They are recommending abortion for convenience, to meet social problems, and so on. So the question should be, do you agree that you should give more prominence to the convenience, the social well-being, of the mother as opposed to the foetus?

**Miss Seese:** I think we made quite clear many times that it is a matter of dispute. There are many people who die from illegal abortions and the fact is we are not just saying that a woman who may die in childbirth needs to be protected, but these women who are going to find other means of abortion anyway and perhaps subject themselves to death. It is not a matter of convenience; it is not a convenient thing to do.

**Mr. Allmand:** Your thinking is that they are going to go to an illegal abortionist and they might die as a result, and in that case, that is the choice; but that is not always the choice.

**Miss Seese:** Very often it is.

**Mr. Allmand:** You will consent that we have to find out. Miss Morton, you said that it is very bad in situations where girls who want abortions often must go from doctor to doctor and the doctors refuse them because they do not believe in abortion, and they try to convince them to carry the child, and so on. Do you think for this reason we should make the law perfectly clear and have no restriction? If the law were perfectly clear that there was no criminal offence, and an abortion could be had on demand up to three

months, just between the doctor and the patient, do you think that a lot of doctors would perform many more abortions than now?

I ask this because when the doctors were before us many of them said they found abortions most repulsive. You see, they are the ones who have to do it. I have had cases where doctors told me that where they are practising abortions they pull out a little head, a little arm, and so forth.

**Miss Morton:** That, of course, is not true.

**An hon. Member:** That must be after six months.

**Mr. Allmand:** No, no; this was in the third and fourth month. In any case, my point is that these doctors gave us the impression that they did not like it, and that even if the law were amended you would still perhaps have to go to doctor after doctor before you would find a one, not on legal grounds, but merely because they found it so repulsive.

• 1310

**Miss Morton:** All right; I will speak to that.

**Mr. Rock:** You will get specialists in it.

**Miss Morton:** First, I think that it is any doctor's right to refuse if his moral or religious convictions are such that he does not want to perform an abortion. However, if the law were clear, and these doctors who, after all, because of the law, do not have any experience with this operation, got that experience, and new, safer and better methods in use in other countries were introduced, many doctors would perform abortions.

I am sure that there would still be cases where women would have to go to more than one doctor, but, on the other hand, once the situation was clear I think it would be easier for them, and their position on this would become known much more openly than it has been in the past.

The other thing is that, frankly, I sometimes just do not understand the doctor's point of view on this. If I were a doctor and my choice was, between, to put it bluntly, cleaning up after an illegal abortionist day after day after day—because these people are admitted into hospitals every day—and performing an abortion in safe and sterile surroundings, where the woman's health was well taken care of, there would not be any

doubt which I would choose. I really think that doctors often have reasons other than their repugnance at doing this.

This is something I probably would not have said three weeks ago but which I will say now because I have become very angry at some of the things I have heard doctors say, which I know are simply not true. People assume that they have medical knowledge but they say things that are not true. We are talking about abortion in the first few months. This is not a foetus which is very developed. It is something about that big. In some instances, I think doctors play on people's ignorance of the development of the foetus and describe situations that are not in fact the ones we are talking about.

**Mr. Allmand:** On this Committee there are four doctors who usually cross-examine doctor witnesses. They do not usually let things go by. I am not a doctor. I am seeking information.

**Miss Wood:** Could I have an opportunity to answer some of the questions you have raised?

I am sorry, I do not know your name.

**Mr. Allmand:** Allmand.

**Miss Wood:** Mr. Allmand, yes.

Several times you have asked questions about laws for the good of human beings and...

**Mr. Allmand:** The whole basis of our law is to protect human life and property.

**Miss Wood:** Personally, my whole motivation for feeling that abortion and birth control information should be available to everybody is on the simple grounds of caring about the child. This is the important thing in this issue—that a child ought not to be forced to be born into a family that cannot give him a proper life, into a family that does not want him, or to a woman who will not be able to give him love. This is the absolute, basic reason behind all that I am saying.

**Mr. Allmand:** I am not questioning your good faith. However, I sometimes get the impression that people in your position question the good faith of others who may have the same basic principle that you have.

**Miss Wood:** Well, yes, they do. I know they do have that principle.

**Mr. Allmand:** Or they push back the beginning of life a little earlier than do you.

**Miss Wood:** But I think they do not understand that principle. I know they have it in mind, but I do not think they understand it. I was born, at the end of the depression, into a very large family that simply could not afford...

**Mr. Cowan:** How large was the family?

**Miss Wood:** I was the youngest of eight children.

**Mr. Cowan:** I am the oldest of ten.

• 1315

**Miss Wood:** It was not that my family did not want me, or could not love me; it was simply that their economic conditions were such that they could not give me a life. In fact, they could not keep me at all and I was adopted.

**Mr. Allmand:** Would you prefer not to have been born?

**A Witness:** That is not a fair question.

**Miss Wood:** Let me answer this. Obviously I cannot say that about myself. I want to live because I am alive. However, I do feel very strongly that I would not want to bring a child into that kind of life. I would feel that I was doing the best thing possible for him not to bring him into it.

**Mr. Allmand:** You realize, though, that there are many suicides among people who are handsome and wealthy; that it is usually not people who are a little bit handicapped, the blind and the crippled, who show no desire to live. I am suggesting this in good faith, just as you do.

**Miss Wood:** That is right.

**Mr. Allmand:** I do not question your good faith.

**Miss Wood:** There are unhappy people in very economically well-off homes, and those families should be using birth control.

**Mr. Allmand:** I am not questioning birth control at all. We are passing a bill on that matter through the House. It is very important to look at both sides, and that is what I am trying to do. I am trying not to have a preconceived position on this.

Mrs. Lefcoe said she thought that silence meant that people were consenting to the

change in the law. Those who protest changes in the law and come before Members of Parliament often accuse people who are silent of not consenting. For example, you mentioned that you first came together as a group that was anti-war. Groups that are anti-war in Vietnam always interpret silence as irresponsibility and acceptance of it.

**Miss Wood:** What you are talking about Mr. Allmand, is silence about a law that is already in existence; she was speaking of silence on a change that is coming in the law.

**Mr. Allmand:** We do not know what the change is going to be. I submit that the silence cannot be interpreted either way. One has to find out. To be scientific one has to find out what people think. One should not conclude that silence means either for or against.

**Mrs. Lefcoe:** I think, though, that if you spoke to anyone from the CBC you would find out that when there is a program that people dislike the letters come in all the time. Yet week after week we enjoy programs but we do not bother to write in and say "Carry on".

**Mr. Allmand:** As a Member of Parliament I know that. It is not whether the law should be changed or not changed. To be scientific one must look into it.

**Mrs. Lefcoe:** But apathy denotes also that one is satisfied; that you can go ahead with what you are planning to do.

**Mr. Allmand:** And those who are activists—the people one hears from—want the law changed.

**Mrs. Lefcoe:** No. You are quiet because you say, "Go ahead with the changes proposed in these three bills".

**Mr. Allmand:** That is a supposition we cannot make.

**The Chairman:** If I may make just one brief point, I think the majority of doctors would agree that at three months a doctor would recognize a foetus. There is, however, a great difference of opinion about at what stage it might cry, and so on, but we have already been through that.

**Mr. Rock:** Mr. Chairman, I have just one short question for all the ladies who are here today: Have you ever thought, had we changed this law 50 years ago, how many of us would be alive today—and I am even including Mr. Knowles in the "50 years"! Have you ever thought of that?

**Mr. Knowles:** I am exempt; I am 59.

**The Chairman:** I think one of the witnesses has already answered that question.

**Mr. Stanbury:** Mr. Chairman, despite the fact that I do not agree with the witnesses that only women should decide such matters, their testimony has been perhaps the most valuable we have heard in that it goes right to the heart of the matter and comes from those who are most directly concerned. I do not say they are the only people concerned with this problem but none, if they are representative of their sex, should feel that there is much inferiority among them, and they are to be congratulated on the way they have presented their cases.

**The Chairman:** Mr. Stanbury has already thanked you, and I, as Chairman, on behalf of the Committee, would also like to thank you for appearing before us.

The meeting is adjourned until Thursday, when we will hear the Anglican Church of Canada.

## APPENDIX "Y"

## BRIEF RE ABORTION LAWS

by

THE NATIONAL COUNCIL OF WOMEN  
OF CANADA1. *Introduction*

The National Council of Women of Canada, incorporated by Act of Parliament, was established on October 2, 1893, with the Countess of Aberdeen, the wife of the Governor-General then in office, as its first president.

The Council comprises fifty-four local Councils, seven provincial Councils, and twenty nationally organized Societies in federation. In all, approximately 1800 organizations are federated with the Council at all levels.

The Councils are located in nine provinces, from St. John's, Newfoundland, to Victoria, British Columbia, thus the Council truly represents women from coast to coast, "a mare usque ad mare". Over many years the National Council of Women of Canada has presented submissions to Government, to Royal Commissions and other bodies of inquiry.

The policy of the Council is based on resolutions adopted at annual meetings following several months' study by the federated organizations. Insofar as this present submission is concerned, it is based on a resolution adopted at the Annual Meeting in Hamilton, Ontario, in June 1964, and subsequently presented to the Federal Government on January 21, 1965, January 31, 1966 and January 30, 1967.

The resolution reads as follows:

WHEREAS, The sections of the federal Criminal Code dealing with abortion are confused, conflicting, outdated and, in certain instances, cruel and unjust; and

WHEREAS, The deliberations, findings and recommendations of a Royal Commission on the subject would acquaint the public with the evils of the present situation and provide an objective and non-partisan basis for amending the law; therefore

RESOLVED, That The National Council of Women of Canada urge the Government of Canada to establish a Royal Commission to inquire into and report on the laws in Canada affecting abortion, and to recommend clarification and amendments to bring these laws into conformity with the realities of Canadian life.

This resolution has been quoted to draw to your attention the fact that the National Council of Women of Canada has been requesting an inquiry. Although the Government has not followed our suggestion of a Royal Commission, the inquiry being conducted by the House of Commons Standing Committee on Health and Welfare does indicate that the Government recognizes the need for study that we hope will lead to amendment of the existing laws.

2. *Criticism of Existing Legislation*

The National Council of Women of Canada is at all times conscious that the laws of the country should in a democratic way give protection to the interests of the people, while always reflecting the *present* needs of the society for which they exist.

Estimates of the number of illegal abortions in Canada vary widely from 30,000 to 300,000 a year, in spite of the fact that the Criminal Code provides harsh penalties for such infractions. Any law that is flouted as widely and tragically as the present Canadian law on abortion is, in our opinion, not only inadequate and unrealistic but it is bad law and tends to bring all law into disrepute.

3. *Abortion in Historic Perspective*

Abortion (not spelled a-b-h-o-r-etc., which would indicate something to regard with horror or detestation) is the premature expulsion of the mammalian foetus. Its methods, problems and reasons for use are not just of

recent origin. The subject appears in the records of very early history. It was used in primitive times as a means of population control. Anthropologists state that it was used by the Chinese as early as 2700 B.C. It is mentioned in the records of the Egyptians. Plato and Aristotle suggested it as their choice of method of population control.

To quote Aristotle: "If it should happen among a married people that a woman who already had the prescribed number of children becomes pregnant, and before she felt life, the child should be driven from her."

Hippocrates, although famous for his prescription against abortion, for undoubtedly he was aware of the complications of abortion, which are known today, did in more practical moments prescribe methods to patients to induce abortion.

Current attitudes towards abortion are of recent origin. Even the history of the Roman Catholic Church indicates that attitudes against abortion were expressed only in the last few centuries. No proscription against it appeared in the earlier history of the Church. Protestant Churches are more liberal, but none condones free abortion.

#### 4. Changing Attitudes Towards Abortion

Rapid changes are taking place in the public attitude towards problems of family planning, divorce and abortions. A growing number of responsible people, including members of our organization, are advocating liberalization of abortion laws to make them realistic and relevant to life today. To note only two examples among many:

(a) On June 21, 1967, the *American Medical Association* made the first policy change on the subject since 1871. This 216,000 member body adopted a new statement of policy which condones abortion to safeguard the health or life of the mother; "where there is substantial risk that the child would be born with grave physical or mental defect"; and to terminate pregnancies resulting from rape and incest.

This policy statement follows recommendations in the Model Penal Code of the American Law Institute. It distinguishes between therapeutic and criminal abortion by insisting that abortions be induced only in an accredited hospital by a licensed physician in consultation with two other qualified doctors who have examined the patient and concurred in writing on the need for the operation. The present re-evaluation of abortion

legislation that resulted in the AMA's endorsement of liberalized laws and the passage of new laws in three states—California, Colorado and North Carolina—is credited to a study of criminal law published in 1962 by the American Law Institute that called for "reformation of the antiquated abortion laws", some of which were more than 90 years old.

(b) Abortions will soon be available without cost in *Britain* on broad social and medical grounds. On October 25, 1967, the British House of Commons gave final approval to a Bill which makes abortion legal if two M.D.'s agree that one of the following might result from a continued pregnancy: the life of the mother might be threatened; her physical or mental health might be injured; any of her existing children might be injured, mentally or physically; a child born from the pregnancy might "suffer from such physical or mental abnormalities as to be seriously handicapped".

The new British abortion law is more permissive than the much publicized Colorado statute that requires unanimous approval by a three-physician panel for a legal abortion. Britain's law, which becomes effective in six months, removes all criminal penalties for any operation to terminate a pregnancy if it meets the rules set out in the Bill.

#### 5. Definition of Terms Used

The wording of all the clauses of the resolution will present to the Committee the extent to which the National Council of Women of Canada is concerned with this subject. It is appropriate now to attempt to clarify and define some of the wording used.

In the initial "Whereas" clause, the words used with reference to sections of the Criminal Code involved are "confused", "outdated", "cruel" and "unjust".

The word "confused" is referring to the fact that abortion is dealt with in two sections of the Code. Section 209(1) deals with the definition of the crime and its outcome if guilt is found. Part (2) is a saving clause in which there is the possibility of reason for the performance of a therapeutic abortion. This appears in the part of the Criminal Code dealing with Murder, Manslaughter and Infanticide. But, under Abortion in the Criminal Code Section 237(1) the law is even more adamant. The doctor or patient is placed in a very untenable situation. There is no saving clause in this section, and a doctor

may be faced with ruin and imprisonment if he acts in the interests of the patient's life. There are instances where decisions of this type must be made in a matter of minutes and it is unjust to expect the best quality of medical practice under such a possible threat to the physician or patient, for under this clause both are liable. These two sections are inconsistent. No matter what the intent of the originators of the law might have been, the important fact is the interpretation by the person or persons applying the law.

In any discussion on abortion it is purely academic to look back on what preventive measures might have been used to forestall the conception, for this subject concerns a fact that has been accomplished; the patient is pregnant and no retroflection will change the situation. (It might also be noted that at present any form of contraception other than abstinence is illegal in Canada. (Criminal Code, Section 150, 2(c))

The words, "outdated", "cruel" and "unjust" are fitting adjectives, in the opinion of the women of Canada, regarding our present laws. They are outdated. In past years, when dealing with Section 209(2) of the Code, that is, the saving clause regarding interruption of a pregnancy to preserve the life of the mother, there were a considerable number of medical conditions for which pregnancy could cause a fatality. Due to modern medical techniques, medications and equipment, many of these medical reasons are now of little importance. However, as medical science has advanced and changed, so have the socio-economic conditions of society changed. Particularly since the famous case in England in 1938, *R. v. Bourne*, psychiatric conditions and the possibility of the destruction of life through suicide in a depressive pregnant women have been the major diagnosis in the incidence of abortion (therapeutic). In evaluating patients for such a procedure there is a great deal of inconsistency. Each hospital and its medical staff define their own regulations for this evaluation, (within the framework of the Criminal Code), and these will differ from one area to another, and from one hospital to another. The number and types of specialists on staff, their relationship to each other, the presence of psychiatrists on staff, all will have a great bearing on the decisions reached in regard to any, or all women. The woman involved, apart from her initial request or presentation

to her own doctor, has no voice in the final decision reached.

Those who object to changes in the law regarding abortion often assume that conscience does not enter into the matter at all—that if the law is changed to make therapeutic abortions legal then conscience will disappear and there will be a general demand by women for abortions. This, we believe, is quite unjust and a serious wrong. We doubt if any more married women who have a reasonable expectation of being able to have a child and properly provide for its care and education will resort to abortion for purely selfish reasons. If such is the reason and the abortion is denied, then pity the unwanted child.

While, as mentioned, medical science has improved the conditions for women to proceed with a pregnancy, it also has discovered the reasons for some of the mentally and physically defective children who are produced. Some are the product of toxic reactions to drugs, such as the thalidomide babies, and now babies whose mothers have taken LSD. Others are caused by the mother's reaction to disease. German measles is one very common disease in which a 20 per cent incidence of defective children occurs when this disease is contracted at any time during pregnancy, but has a 60 per cent chance of defectiveness if the disease occurs in the first 14 weeks of pregnancy. Mumps is also being looked upon with suspicion. It is unjust to require that a woman proceed through the remainder of her pregnancy fearful and uncertain of the condition of the child she will bear. If she chooses to do so, this would be her prerogative.

An abortion should not be imposed on any woman who does not want it or whose religious beliefs forbid it. Similarly, no doctor should be obligated to perform an abortion against his will or his religious principles.

Two physicians should be empowered to authorize an abortion. No woman should have to defend her case for an abortion before a termination board or a committee. It is a negation of her rights as a human being, and an affront to her dignity and self respect.

Certain offences under the Criminal Code which may result in pregnancy include: rape (Section 135); Sexual intercourse with a female under 14 (Section 138); sexual intercourse with an idiot or imbecile; a feeble-minded or insane person (Section 140); incest...intercourse under restraint, duress or

fear (Section 142); seduction of females between the ages of 16 and 18 (Section 143); seduction under promise of marriage (Section 144); enticing females into prostitution (Section 184); abduction of females under 16 (Section 234).

There are incidences of cruelties and injustices in our present laws that permit the victims of crime to be punished as severely as the guilty parties. This refers to the victims of rape and incest. The act that could produce an undesirable pregnancy is a severe traumatic shock to the woman, single or married. She should not be required to carry and produce the child conceived during such an experience.

The young women, little more than a child in emotional development, who under the age of 14 or even 15 becomes pregnant is almost totally unprepared for the role which is being demanded by society for her to follow. Pregnancy in the woman who is an idiot, imbecile, feeble-minded or insane, is always the result of an offence; the burden to these people and to their guardians is intolerable.

Should such women be forced, as they are at present, to proceed with such a pregnancy? We think not.

#### 6. *The Plight of Unwanted Children*

Up to this point the concern has been expressed for women. However, the National Council of Women of Canada is acutely aware of the environment and conditions under which children should be raised. What conditions will permit the growth of physically and mentally sound children to adequate adults? It is impossible to insure that all children born will be raised in ideal environment or conditions. This has never been a possibility and it will not likely occur in the future, but there is no reason for society to insist, when there is a possible alternative, that only one course of action be followed.

Society must recognize the cruel disadvantage to the child born of parents with severe psychiatric disorders; it must recognize the tensions, frustrations and often physical abuses that are the child's burden. Today there is an ever increasing number of babies born out of wedlock and awaiting adoption. The tragedy is that there are not enough adopting parents for them. Too frequently these children are being shunted from foster home to foster home. Because of this their physical, mental and emotional growth is warped and stunted. Children born as a

result of a criminal offence are often rejected and treated with hostility by both parents and society.

#### 7. *Statistics on Abortions*

Since the National Council of Women of Canada requests that amendments to the laws be in conformity with the realities of Canadian life, it might be advantageous to point out a few of the realities which do exist today:

In April, 1962, a submission by this Council to the Royal Commission on Health Services emphasized the fact that the most common cause of maternal death in the large city is a result of criminal abortion. The majority of these women are married and between the ages of 16 to 25, and 40 to 45 years. This is estimated in Canada at about 300,000 per year. The estimate is conservative as no one can state with certainty how many unreported criminal abortions occur.

One-third of the maternal deaths in rural areas, and two-thirds in large urban areas are attributed to the effects of criminal abortion. Many more women are made sterile from infection following such a practice. These numbers are high and will continue to grow, unless society through more humane legislation acts to improve the situation.

Therapeutic abortions occur about 1/500 live births. They occur five times more frequently in the upper socio-economic levels than with indigent patients. This points up the discrimination inherent in existing legislation; it works hardship against those who do not have the money to pay.

There are an increasing number of therapeutic abortions being performed in our hospitals, mainly for psychiatric reasons. The medical profession should not be placed in an untenable position—of possibly being accused of a criminal offence.

#### 8. *Conclusion*

Obviously, prevention of conception is preferable to abortion, which should be looked upon as a last resort. Educating the public in family planning will go a long way towards reducing the incidence of abortion.

The women of Canada today are more mature and more enlightened in their thinking than ever before in our history. They are extremely conscious of their role in the family, in the community, and in the welfare of their children. The subject which the House

of Commons Standing Committee on Health and Welfare is studying, and the recommendations which the Committee will forward to the Government of Canada touch the lives of all women in Canada. These will be very personal and important to them. Any recommendations made must meet and reflect their

needs, must engender respect and be enforceable.

The National Council of Women of Canada is grateful to the Committee for the opportunity of expressing these views which reflect the opinions of many thousands of Canadian women.

## APPENDIX "Z"

"SOCIETY'S  
INHUMANITY TO WOMAN"A BRIEF  
PRESENTED BYTHE CANADIAN ABORTION  
LAW REFORM ASSOCIATION  
LONDON—ONTARIO

## I. INTRODUCTION

The Canadian Abortion Law Reform Association of London (CALRA) was formally organized in March 1967. Its purpose is to increase community awareness of the personal and social costs imposed on Canadians by the present law and thereby increase the efforts made by individual citizens to hasten reform of this law. It is our hope that we may influence this committee to accept the recommendations that we shall be making during the presentation of this brief.

The Encyclopaedia Britannica defines abortion as "the termination of pregnancy before independent viability of the foetus has been attained". This brief will refer solely to induced rather than to spontaneous abortion.

Induced abortion, for definitive purposes, may be classified as either criminal or therapeutic; therapeutic abortions being the type performed in approved hospitals by licensed physicians, and criminal abortions being the type performed by non-medical or medical personnel illegally, not in accredited circumstances, and not falling within the context of the law.

## II. WHEN SHOULD A LAW BE CHANGED?

We believe that a law should be changed when it cannot be enforced. The difficulty in having a law against abortion is that it is impossible to enforce since we have technically no victims, unless of course the woman who is being aborted dies. A woman who has successfully had an abortion is not likely to admit to the authorities that she has, in fact, broken the law.

We believe a law should be changed when clearly it is a religiously and not secularly supported law.

We believe a law should be changed when it causes greater social ills than social benefits.

III. WHY SHOULD THIS LAW BE  
CHANGED?

We believe this law must be changed for the many Canadian women who, finding a pregnancy intolerable, resort to criminal abortion (estimated at anywhere from 100,000 to 500,000 women). Reliable data is difficult to obtain since criminal activities are naturally cloaked in secrecy. The demand, however, is not suppressed by suppressive legislation. The maternal death rate in Canada is very high and the major cause of such deaths is due to criminal abortion.

Dr. Donald Lowe, former Chairman of the Ontario Medical Association Committee on Therapeutic Abortion, has estimated that between 25,000 and 75,000 criminal abortions are performed annually. Since the maternal death rate is commonly considered to be a good indicator of the level of civilization in any society,<sup>(1)</sup> we should be vitally concerned by these statistics.

We believe the law should be changed to enable doctors to operate within that law while fulfilling their obligations to their patients. The law should not interpose itself between the physician's good judgement and the patient. Describing his dilemma, one doctor says:

"There is a sense of tragedy here, a deep confusion. I was trained as a doctor to help people—to relieve them of their miseries. I am frightened that a woman will walk out and do something desperate. Here is a situation which I could prevent, a place where I could certainly be of help, but I am forced to withdraw to allow a woman to go through an experience which will be very disturbing, which might kill her, and there is absolutely nothing I can do."<sup>(2)</sup>

#### IV. WHAT WE RECOMMEND

The Canadian Abortion Law Reform Association seeks, as minimal requirements of a reasonable and humane abortion law, establishment of the following indications for therapeutic abortions:

- (a) when the mental and physical health of the mother is in danger;
- (b) when there is risk of a defective child being born;
- (c) when the pregnancy is a result of rape or incest.

We believe the request for abortion to be a matter between the woman and her doctor and we see no reason to seek committee approval. We would recommend that the doctor consult with one other physician (or more if he so desires) before making a recommendation for abortion.

We believe that committees create problems by causing delay in obtaining appointments (doctors are notoriously busy), in arranging meetings, in postponements which can frequently make the difference between a simple surgical procedure and a much more complicated operation.

We also object to committees since doctors on the committee rarely know the patient and we feel it would be difficult to make a valid decision unless one takes into account the total woman; all decisions affecting a married woman must of necessity affect her children and her husband.

In addition, we object to committees because we feel some women would not request a legal abortion to avoid the publicity accompanying discussion of her case by medical personnel not directly concerned with her; and would, therefore, rather seek a criminal abortion. The decision to terminate a pregnancy should be a private matter between the patient and her personal doctor.

#### V. SOME ARGUMENTS AGAINST CHANGES IN OUR ABORTION LAWS AND CALRA'S COUNTER-ARGUMENTS

##### A. "Abortion is murder."

From the first to the third month of gestation, when most abortions are performed, the foetus cannot live outside the uterus; it cannot survive independently; and so it is not

human. At this time it is an inch to two inches of protoplasm, a *potential* human, just as one-fifth of all fertilized ovum aborted naturally via the menstrual flow are potential humans.

We are more concerned about the needless maternal deaths each year as a result of a bungled abortion. We find it difficult to justify the preservation of potential life over an existing life.

##### B. "Easing of the abortion law would cause widespread promiscuity."

Since fifty to ninety percent of the women seeking abortions are married women with three or four children by their husbands, this would not seem to be a problem.

Fear of pregnancy has not acted as a deterrent to pre-marital sexual activity. If anything, the discovery of birth control devices in this century has been the factor which has separated sex from reproduction. Comparing Canada with countries like Japan and Sweden (where abortion legislation is very liberal) in the areas of illegitimacy, divorce or breakdown of marriage and illegal abortions, we can scarcely contend that we are a more moral nation. Any Children's Aid society can quote the high number of illegitimate children in their care yearly—which brings us to another argument:—

##### C. "We need illegitimate children for adoption."

Because of the rise in illegitimacy and because of the advent of hormones which now enable some women to conceive, there are far more children waiting for adoption than applicants waiting to receive them.

Many studies have been done on the child who grows up without love—the unwanted child—which reveal the damage this upbringing can cause to his personality and character. A recent letter in a British weekly reads:

"I am a probation officer working in a highly delinquent area in the east end of London. We who deal with the misfits of the world know the inevitable damage caused by the lack of parental affection in infancy. Is it not therefore time to refuse to allow babies to enter into a loveless life?"<sup>28</sup>

#### D. "Abortions will replace birth control"

In this country, birth control devices—particularly "the pill"—have been, in spite of the law against them, sold, discussed on television, prescribed by a majority of doctors and planned parenthood associations, and in general have been known and used in this country for a great many years. We are not, therefore, in the same position as was Japan when abortion was introduced as an emergency measure to limit population, at a time when contraception was virtually unknown.

There is no question that the only sensible way to prevent an unwanted pregnancy is by use of birth control measures. No one enjoys surgery, no one undergoes abortion for the fun of it.

Surgical termination of an unwanted pregnancy would be a last resort when contraception has failed.

#### E. "It is a dangerous operation."

Studies done in countries where abortion has been legal show that the mortality rate is 6 per 100,000 which is less than the mortality rate of normal childbirth.<sup>4</sup> Some anti-abortionists will quote high Canadian figures for abortion mortality. However, in order to have been aborted in a Canadian hospital in the first place, one would have had to be very ill and death would more likely have resulted from the disease, not from the actual abortion.

#### VI. A WOMAN'S THOUGHTS ON ABORTION

Laws are enacted by men but women must often suffer the consequences of these laws. "Ethical systems that deny women freedom are a product of men, the residue of an ancient world in which women were quite literally placed in a legal class with children, idiots and slaves."<sup>5</sup>

I believe I have the right to be responsible for my body. I ask only to be treated with the respect due any member of the human race: with the dignity of reason and self-determination.

No man can comprehend a woman's emotion when she is carrying an unwanted child—unwanted because of rape, because of innocence, because of failure of contracep-

tion. He will never know the shame and agony she endures as she watches her abdomen swell and as she feels the movement of life within her. No more than he will ever know the joy and beauty of watching and waiting for a wanted child. According to Margaret Sanger, "No woman can call herself free until she can choose consciously whether she will or will not be a mother."

If women had been doctors, lawyers and legislators a hundred years ago, this law would never have been imposed upon us.

Since each circumstance is unique, no law can possibly hope to cover all human situations. I find it difficult to support the contention that, if abortion is permitted in certain instances the problem of illegal abortion will cease to exist, since the majority of women wanting abortions are married women who, because of failure of contraceptives, are burdened with an unwanted pregnancy. "The over-burdened mother" clause of the British bill<sup>6</sup> would be necessary in this country as well.

I consider it highly immoral for women to produce child after child when they do not have the intention of loving these children.

Our antiquated laws can force women to bear a child but they cannot be compelled to love that child. If the anti-abortionists have their way, back-street operators will continue to flourish, because a woman determined to terminate her pregnancy will find a way. Slamming the hospital doors in her face merely endangers her life.

I believe that as a woman has the right to refuse an abortion, and she certainly has this right, whether it be on religious grounds or for any other reason, she must also be given the right to choose an abortion. An unwanted pregnancy is a matter "that concerns only the woman and her doctor. It is not the domain of the moralist, faddist or legalist."<sup>7</sup>

Surely only the woman herself can make the decision regarding an abortion. She, and only she, knows her capacity. She, and only she, knows her relationship with her husband and her other children. She, and only she, knows what this pregnancy will do to her life...not her lawyer, nor her clergyman, nor her husband, nor any committee of doctors.

She alone must be allowed to make the decision.

The Canadian Abortion Law Reform Association

#### REFERENCES

1. Ontario Legislature, Feb. 26, 1967, Mr. S. Lewis
2. "Abortion and the Law" by Paul Ferris
3. The British Weekly, Edinburgh, 27, 10, 66.
4. Tietze, Christopher and Hans Lehfeldt, 1961; Legal Abortion in Eastern Europe. (Jour. Amer. Med. Assn. 175: 1149-1154)
5. "Abortion and Human Dignity" by Prof. Garrett Hardin, a public lecture at the Univ. of California, Apr. 29, 1964.
6. Sec. # 1, sub-sec. 2 of the 1967 British Abortion Act.
7. Evergreen Review, # 46, April 1967—p. 25.

## APPENDIX "AA"

BRIEF  
TO THE HOUSE OF COMMONS HEALTH  
AND WELFARE COMMITTEE ON  
ABORTION LAW REFORM

by the

WOMEN'S LIBERATION GROUP

Women have historically been accorded a role inferior to that played by men in society. In the work place, in politics and government they have been second class citizens. Only fifty years have passed since women were given the vote. A major factor that kept women in this secondary role was the fact that women had no control over their own bodies. They were tied to the vagaries of nature.

Many people now accept that the birth control and abortion laws, passed in 1892 and when women could not vote, are in need of reform. But among those men who favour a mild reform of the laws there is an assumption behind their timid recommendations—that the function of women in society is to bear children, and that only in extreme cases where great social evil of one kind or another will occur if a woman bears a child, can society decide to allow her to halt the pregnancy.

We say on the contrary that the function of women is not simply to bear and raise children. The ability of a woman to control her own reproductive processes is a necessary precondition if women are to throw off the bonds that have for so many centuries stifled their full potential as human beings. The bonds that have kept them tied to menial household chores whatever their capacities and interests, because they could not plan their families.

Women must be allowed to choose for themselves, when they wish to bear children and when they do not.

I. We suggest a national referendum be held in which only the female citizens of Canada could vote, on the proposition that:

"An abortion should be performed for any woman who requests one from a licensed doctor or hospital, subject only to her decision and state of health."

A. Only women should vote because it is their right to make such decisions about their bodies. Women must control their own biological existence before they will be free to choose their own roles in society.

If a woman is fortunate enough to have the type of viable and lasting relationship with the father of the potential child, in which he wishes to help her make the decision and accept the responsibility for it, then they can mutually agree as to whether to stop the development of the pregnancy or not. However, to insure that she would not be legally controlled by a man's possible irresponsibility, the ultimate decision should be hers. Therefore let us at last officially put the responsibility where it has always been.

Although we recognize that there are many men who both love and accept the responsibility for their children even in the case of marriage breakdown, we are also very aware of most women's inability to demand the support of a man who really wishes to avoid it. We also hold that it is immoral for a society, by its inaction, to condemn any child to be raised, and its mind and emotions warped, by a mother or father who does not want or love it.

B. It has always been said that women must bear the responsibility for their actions, thereby becoming our brothers' morals keepers. Men have had their law for 75 years, we will now have ours. The present anti-conception-control laws were made at a time when women were not allowed to vote. These laws were, and are even today, an expression of a male chauvinist concept that equal human beings, that is women and children, can be owned by men. It was felt that without such laws, society would fall into chaos and morals would degenerate; even worse, a man

would not be sure of the legitimacy of the heir to his home and property.

Most of our laws are written to ensure property rights. The laws pertaining to women's sexual freedom, and therefore indirectly pertaining to their very lives, follow this pattern. We demand that the women of this country be allowed the opportunity to express their preference for laws ensuring their freedom from an oppressive system; their preference for laws which consider the well-being of human beings (both women and their potential offspring who should not be subject to being born unwanted) rather than 'legitimate' property; and freedom from being forced to risk their lives in the hands of illegal abortionists.

C. Our political system effectively excludes and denies women political representation and participation. This Committee of the House of Commons, mandated to make recommendations on legislation of vital importance to women, with only token representation is another example of the workings of that predominantly male political system.

It follows that the medical and legal review boards for abortions, suggested by some here, are not only another type of structure in which male decision-making would predominate, but also are completely impractical for women's needs; and of most consequence here today, would still not put an end to illegal and amateur butchery that women are subjected to now.

We would like to discuss in detail these last two points:

C 1. If we consider the criteria that have been suggested to be used by these review boards, we find three major factors that might be recognized as sufficient reason for allowing a woman an abortion.

(a) The physical health of either the mother or child being in jeopardy (e.g. thalidomide drug cases, Rubella cases, a heart condition or an inheritable disease, etc.)

(b) The mental health of the mother being in jeopardy (e.g. the mother being seriously mentally ill, or liable to become so during or after the birth of the child.)

(c) In the case of rape or incest.

Let us examine these criteria:

(a) What would this review board do if they could not determine whether or not a potential fetus would be deformed, although

they knew the mother had taken thalidomide, or contracted Rubella? If they began to receive frequent cases of women alleging they had taken thalidomide (for instance), would they presume these women were attempting to get abortions illegally and then begin to refuse on those grounds?

(b) What would the review board do in the case that they received conflicting diagnoses from psychologists as to the mother's mental health, as so often happens in legal cases in our courts today? Given our experience with this type of conflict between psychiatrists and psychologists, how would the review board predict whether or not labour, delivery, and the even more traumatic experience of accepting the responsibility to meet the constant needs of a newborn child, would derange a woman's mind? And what would be the result of the powerful influence of a psychiatrist on that board who held that 'subconsciously' every woman needs to express herself, through bearing children, so for her own good, she should not be allowed to abort?

(c) Where will such a review board get an official decision as to whether or not an alleged rape was a rape? From court proceedings which may take months? Frequently, there are legal cases where the verdict accepts a reasonable doubt that rape occurred as when it is alleged or proven that the woman has willingly had intercourse with other men. Will this review board then assume that because she agreed to intercourse once, she has never said no? Will this review board be tinged by that often-found belief in our society—"There can be no such thing as rape" most often said with a sneer of lust?

In instances of incest, if a young girl is being opportuned by her father, or an uncle, or brother, does this committee really expect her to have the courage to brave her family's wrath and shame and to approach a review board with the truth? Would she even approach her respectable family doctor, if she has one?

We ask you, gentlemen, where will all these 'if' cases go when turned down?

(d) (a,b,c) When one considers the usual bureaucracy of such a system as this one being proposed, the time factors of abortion become most important. It very frequently happens that a woman will miss one, or even two, menstrual periods, from either tension,

emotional crises, physical illness, or as a side effect of birth control pills. If a woman suspects that any of these might be the reason she has missed a period, she usually waits until she misses the second to go to a doctor. By this time she may be 2 months pregnant and will have only 1 month to:

- get a test completed,
- apply to the review board, go through its red tape,
- wait for a decision if there is any controversy or need for added hearings, find witnesses, experts, etc.
- acquire a bed in a hospital,
- and finally have the abortion performed before the end of the third month which is highly recommended by all doctors as the safest limit.

The bureaucracy and controversy present in this type of system has proven the method to be extremely unsatisfactory in Sweden. Illegal abortions are still performed there for women who the board rejects. Because of the proceedings she has gone through, the abortion is often obtained late, frequently in the 4th and 5th month.

It is worthwhile for this Committee to also investigate the recent reform in Britain. Although the new British law is much freer in that it includes consideration of social grounds for abortion, it still has its limitations. On Oct. 27 a *Toronto Globe and Mail* editorial supporting the British reform, inadvertently pointed out the major contradiction:

"Some doctors opposed this clause on the ground that it would require them to make judgments in sociological fields in which they are not expert. But, as the reformers pointed out, this was untrue. *The beauty of the legislation is that it compels nobody to do anything.*"

Very true. No one has to recognize a woman's decision. The doctors can still decide the course of a woman's life on *their* criteria.

However, if the decision was left to the woman alone, as soon as she suspected she was pregnant she could go to her doctor. If he diagnosed a pregnancy and ascertained that she could withstand an abortion, he could either do it immediately in his office, which doctors claim is possible if it is an early pregnancy with no complications, or he could immediately apply for a bed in the hospital, on a time priority, and undoubtedly

the abortion could be completed within a week. Or a woman could go directly to a specially-designed abortion clinic, in the hospital, where tests could be done on the spot, and arrangements made for the abortion immediately.

We have noticed in opinions expressed in briefs presented to this Committee by politicians and concerned reformists who advocate this type of review board and attitude expressive of an affluent middle-class situation in life, where it is easy and effective to ask a doctor for help and then pay for his services. And if the abortion is for 'mental health' reasons, it will be the affluent middle-class women who know about and have access to a sympathetic psychologist. What help will such a law be for the women who are intimidated or refused by doctors and psychologists because they cannot pay?

Even now with the repressive laws in existence, middle-class women have access to doctors who do abortions secretly, or approved abortions for medical reasons. This popular abortion-law-with-strings will only legalize what is already being done for women with money and influence. It will not stop home-made or quack abortions for those who are ignorant, poor and without 'connections'.

C 2. Let us go on to the second point that we would like to discuss at length—to us by far the most important. That is, that such limited grounds for abortion law reform as the three points discussed above, are *totally inadequate, unrealistic, and unacceptable*. They totally sidestep the major causes for abortion today, the social causes—economic reasons and family welfare, or the unmarried state of the woman. The reality of our society, as the majority of us women know, is that these *are* the reasons that most women are driven in desperation to 'home remedies' or to quacks and incompetent exploiters—causing illness, mental trauma, sterility, and death.

It has been estimated by the Humanist Federation of Montreal that 800 women died in Canada last year because we hypocritically refuse to recognize this fact of life. The deaths of 800 women are on your hands and on the hands of all the men in our government who have been too cowardly to face the controversy over this kind of reform. Such controversy is generally between male leaders of churches, male doctors and lawyers,

and male politicians. Their deaths are also on the hands of all citizens, who have not demanded that such buck-passing be halted.

(a) Any married woman should be allowed to do the planning of her family and life today. She is the one who has to take on the responsibility for that extra child that the family cannot afford. She is the one who must find the money in her budget for food, clothes, medicine and rent. She is the one who may spend literally 24 hours a day attempting to provide all those things without enough wages coming into the home. She is the one who worries about her children getting as much education as possible and about what necessities this new child might be taking away from the others. She is the one who worries about her son going out on the streets with a gang that steals things their families cannot afford; who worries about her daughter who starts to go out every night at the age of 14 because the cramped house is too full of fighting smaller children and parents who are always tired. If that daughter finds excitement or love, she too may need an abortion.

What do you gentlemen know about what it is like to be a woman, a mother of eight children, without \$2.50 to buy pills when needed because her husband's pay check was garnished by the finance company and she got only \$32.00 for 2 weeks' pay (and milk for her family costs \$8.40 a week)? Do you think you can imagine her feelings when her husband, so worried by these troubles, turns to her for affection? She gives it and she needs it. Do you think you can imagine, two months later her desperation when she knows she will be bringing another helpless child into that family?

We do not think you can understand this because you are not women and you are not poor. We think that every woman has every right to decide to get an abortion and every right to get it done by a reputable doctor in a decent hospital.

(b) You may ask, why does not a woman take birth control pills and then there will be no need for abortions? First, she has eight children because the pill has been available only a few years. Second, since it is illegal to disseminate information on, or make available, methods of birth control, research and development of better drugs and methods by the pharmaceutical companies have been very slow. If such activity were not illegal, women as consumers would have the power

to demand better methods and information. Many of the pills produce unpleasant side effects, and many doctors are hesitant to prescribe them or are confused and contradictory in their attitudes toward use, thereby causing fear among many women about their future health and ability to conceive. This is compounded by (a) a lack of information about the pill, how to attain it, how to use it; (b) embarrassment and outright intimidation received from many doctors and druggists when a woman does ask; and (c) the fact that many men feel that the pill threatens the proof of their potency.

Middle-class girls are often ignorant of birth control, venereal disease, and abortion because it is assumed that they will not need this information, since they are 'nice' girls. Working-class or poor girls are not usually ignorant from such false nicety but from lack of scientific knowledge and lack of money to obtain such information through a doctor's services. Fear and old-wives tales are passed on from generation to generation.

One cause of women's ignorance is the Criminal Code which was written in 1892. We were astounded to find that in the same clause that made disseminating birth control information or methods illegal, it was also made illegal to disseminate information or methods to cure venereal disease or any diseases of the generative organs (which includes cancer of the cervix). The brutality of holding the fear of such dire things as venereal disease and unwanted pregnancy over the heads of women to force them not to indulge in sex is clearly blatant prejudice.

**WE STRONGLY RECOMMEND:** that information about and methods of birth control and how to avoid venereal disease should be widely disseminated, free of charge, by the Federal Health Department to any woman, from the age of puberty.

Because of 1) ignorance, 2) fear of untested drugs, 3) accident, 4) the fact that many women will never wish to use such medication (and that should be their right), and 5) it is prohibited by law, there is still a need for abortions. But women are still being forced to go to untrained people or quacks. Doctors are still more afraid of the law than they are willing to save women from risking their lives because of society's 'moral' standards or because of poverty, and therefore there is still a need for abortion law reform.

c) Women in situations such as the one we described above (C 2 a), often use 'home remedies' for an abortion, such as knitting needles or ammonia, because they can not afford an illegal abortionist. But if they can borrow the money they can go to one of these people, who may not know for sure what are the dimensions of a uterus, who never heard of sterilizing his kitchen knife, who may be drunk, who may double his price or demand sexual acts from her. She might be lucky enough to find a trained doctor who in Toronto or Montreal, will charge her \$400-500, if she can borrow it, which is extremely unlikely.

She certainly will not know how to get the services of a psychiatrist who can convince a hospital that she needs an abortion for mental health reasons. Nor could she afford his fee, or even bring herself to enter his plush waiting room if she did know about this loophole in the law. And why *should* she go through the intimidating experience of answering his disapproving question "Why do you keep getting pregnant?", implying that the poor women should do without sexual activity if they can not afford it.

C 3. Let us examine the case of unmarried women who find themselves pregnant. In Canada it is almost impossible for a single woman to keep her child because women rarely earn the same wages as men and because of the lack of adequate and inexpensive day care facilities for toddlers from 3-6 and no facilities for infants under 3. In addition, many women find the alternative of welfare shameful and repugnant, for the welfare system neither allows women adequate money to raise children decently nor allows them to retain their dignity.

She might try to get the man to marry her, but under those conditions the marriage

would undoubtedly be a very unhappy one, perhaps producing a neurotic child or leading to a divorce, *if* she can get one. Or, she too can take the risk of going to that backstreet abortionist. All of those consequences are open to her for committing the natural, human act of expressing herself through sexual activity.

If the single woman chooses neither of these alternatives she must then decide to place her child for adoption with the knowledge that the lack of available homes for adoptive children may mean that her child never has a real home. The number of children shunted from one institution to another, from foster home to foster home will increase unless we can ensure that no woman need bear an unwanted child, by changing our laws on abortion and birth control.

The human reproductive system may leave women with 'proof' of their sexual experiences—pregnancy. Society as well perpetuates a double-standard, that puts the duty of abstinence on the women. It is therefore obvious that these anti-conception-control laws are flagrant and unacceptable prejudice against women.

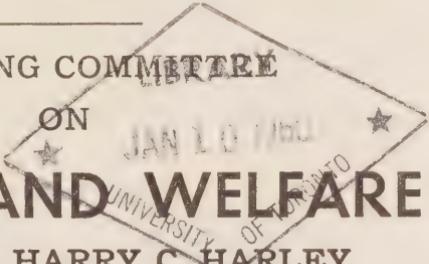
It is also quite obvious that the underlying objection to real reform, by some in the House of Commons and by many in Canada, is fact, an objection to the idea that women should have equal sexual freedom.

We demand that you create legislation that accepts the facts that *we have* to accept, because gentlemen, we women **WILL** have our rights even if we have to take them illegally.

NOTE: We support the brief by the Humanist Federation of Montreal, the only other group to our knowledge that has had the integrity to recommend acknowledgement of a woman's reality in society.

HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1967

STANDING COMMITTEE  
ON  
**HEALTH AND WELFARE**

A diamond-shaped stamp from the University of Toronto, dated JAN 10 1968, is placed diagonally over the text. It contains the words 'UNIVERSITY OF TORONTO' and two stars.

*Chairman:* Mr. HARRY C. HARLEY

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 14

THURSDAY, DECEMBER 14, 1967  
TUESDAY, DECEMBER 19, 1967

Respecting the subject-matters of

Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

INCLUDING THE FIRST REPORT TO THE HOUSE

WITNESSES:

*Representing The Anglican Church of Canada:* The Right Rev. Ernest S. Reed, Bishop of Ottawa; The Rev. Canon Maurice P. Wilkinson, Priest, General Secretary, Council for Social Service; Dr. J. David Cairns, Obstetrician and Gynaecologist, Clinical Research Fellow, University of Toronto; The Rev. Dr. Charles R. Feilding, Professor of Moral Theology, Trinity College; Dr. Paul Christie, Psychiatrist, Superintendent, Ontario Hospital; Dr. Helen M. C. Morley, Medical Officer, Child Health Services, Borough of East York; Mr. Gordon A. B. Watson, Professor of Philosophy of Religion, Trinity College; Mr. Gordon R. Gwynne-Timothy, Q.C.; The Rev. Robert D. MacRae, Priest and Social Worker, Assistant Secretary, Council for Social Service; Dr. Mary Sidgwick, General Medical Practitioner; Mrs. Letitia M. Edinborough, R.N.; and Rev. Dr. Reginald F. Stackhouse, Professor of Religion and Ethics, Wycliffe College, all of Toronto.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1967

STANDING COMMITTEE

ON

HEALTH AND WELFARE

*Chairman:* Mr. Harry C. Harley

*Vice-Chairman:* Mr. Gaston Isabelle

and

Mr. Allmand	Mr. Forrestall	Mr. Matte
Mr. Ballard	Mr. Howe ( <i>Wellington-</i>	Mr. Orange
Mr. Brand	<i>Huron</i> )	Mrs. Rideout
Mr. Brown	Mr. Knowles	Mr. Rochon
Mr. Cameron ( <i>High Park</i> )	Mr. Laverdière	Mr. Rock
Mr. Chatterton	Mr. MacDonald ( <i>Prince</i> )	Mr. Rynard
Mr. Cowan	Mrs. MacInnis ( <i>Van-</i>	Mr. Simard
Mr. Enns	<i>couver-Kingsway</i> )	Mr. Stanbury—(24).

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

## REPORT TO THE HOUSE

TUESDAY, December 19, 1967.

The Standing Committee on Health and Welfare has the honour to present its

### FIRST REPORT

On June 27 and 28, 1967, the subject-matters of the following bills were referred by the House of Commons to the Standing Committee on Health and Welfare for its consideration and report:

Bill C-122, An Act to amend the Criminal Code (Abortion);

Bill C-123, An Act to amend the Criminal Code (Birth Control);

Bill C-136, An Act concerning the Termination of Pregnancy by Registered Medical Practitioners.

From June 29, 1967 to December 19, 1967 inclusive the Committee has held 17 meetings, has received 18 briefs, numerous resolutions, petitions and letters, has heard 49 witnesses from legal and medical associations, church groups and many other organizations and individuals.

Your Committee has found that opinion on abortion varies widely throughout Canada. Representations range from leaving the Criminal Code as it is to allowing abortion on request. In addition, most of the representations reflect positions between these opposite sides of the question.

There is general agreement that the Criminal Code is ambiguous in its references to abortion. The relevant sections of the Criminal Code are as follows:

209. (1) Every one who causes the death of a child that has not become a human being, in such a manner that, if the child were a human being, he would be guilty of murder, is guilty of an indictable offence and is liable to imprisonment for life.

(2) This section does not apply to a person who, by means that, in good faith, he considers necessary to preserve the life of the mother of a child that has not become a human being, causes the death of the child.

237. (1) Every one who, with intent to procure the miscarriage of a female person, whether or not she is pregnant, uses any means for the purpose of carrying out his intention is guilty of an indictable offence and is liable to imprisonment for life.

(2) Every female person who, being pregnant, with intent to procure her own miscarriage, uses any means or permits any means to be used for the purpose of carrying out her intention is guilty of an indictable offence and is liable to imprisonment for two years.

- (3) In this section, "means" includes
- (a) the administration of a drug or other noxious thing,
  - (b) the use of an instrument, and
  - (c) manipulation of any kind.

238. Every one who unlawfully supplies or procures a drug or other noxious thing or an instrument or thing, knowing that it is intended to be used or employed to procure the miscarriage of a female person, whether or not she is pregnant, is guilty of an indictable offence and is liable to imprisonment for two years.

Your Committee feels that this ambiguity should be eliminated. It is obvious that sections 209 and 237 are contradictory.

In view of the lack of factual evidence with regard to abortion in other countries, and in view of the importance of the assessment of such evidence, the Committee should make studies relevant to other countries. In this way, world wide experience in the matter of abortion can be evaluated in the light of the present situation in Canada.

Accordingly, your Committee is not prepared to make a final report at this time. However, the Committee members, on the basis of representations and study to date, feel that an interim report should be submitted now, on the understanding that the Government may wish to introduce some legislative changes in the laws concerning abortion, without waiting for a full and final report.

Your Committee therefore recommends:

(1) That section 209(2) of the Criminal Code be amended to allow therapeutic abortion under appropriate medical safeguards where a pregnancy will seriously endanger the life or the health of the mother;

(2) That sections 209, 237 and 238 of the Criminal Code be amended as required, so that their interpretation will not give rise to ambiguous situations;

(3) That the Committee on Health and Welfare continue its hearings into the subject of abortion, including the experience of other countries.

A copy of the relevant Minutes of Proceedings and Evidence (*Issues Nos. 1 to 14*) is tabled.

Respectfully submitted,

HARRY C. HARLEY,  
*Chairman.*

## MINUTES OF PROCEEDINGS

THURSDAY, December 14, 1967  
(16)

The Standing Committee on Health and Welfare met this day at 11.15 o'clock a.m. The Chairman, Mr. Harry C. Harley, presided.

*Members present:* Mrs. MacInnis, Mrs. Rideout and Messrs. Chatterton, Cowan, Enns, Forrestall, Harley, Howe (*Wellington-Huron*), Isabelle, Knowles, MacDonald (*Prince*), Matte, Orange, Rock, Stanbury (15).

*Other Members present:* Messrs. Dinsdale, McKinley and Watson (*Assiniboia*).

*In attendance: Representing the Anglican Church of Canada:* The Right Rev. Ernest S. Reed, Bishop of Ottawa; The Rev. Canon Maurice P. Wilkinson, Priest, General Secretary, Council for Social Service; Dr. J. David Cairns, Obstetrician and Gynaecologist, Clinical Research Fellow, University of Toronto; The Rev. Dr. Charles R. Feilding, Professor of Moral Theology, Trinity College; Dr. Paul Christie, Psychiatrist, Superintendent, Ontario Hospital; Dr. Helen M. C. Morley, Medical Officer, Child Health Services, Borough of East York; Mr. Gordon A. B. Watson, Professor of Philosophy of Religion, Trinity College; Mr. Gordon R. Gwynne-Timothy, Q.C.; The Rev. Robert D. MacRae, Priest and Social Worker, Assistant Secretary, Council for Social Service; Dr. Mary Sidgwick, General Medical Practitioner; Mrs. Letitia M. Edinborough, R.N.; and Rev. Dr. Reginald F. Stackhouse, Professor of Religion and Ethics, Wycliffe College, all of Toronto.

The Chairman discussed a few points of procedure. He introduced Rev. Canon Wilkinson who asked Right Rev. Bishop Reed to introduce the members of the delegation. Rev. Canon Wilkinson made a preliminary statement.

The representatives of the Anglican Church of Canada were severally questioned.

*Agreed,*—That the brief of the Anglican Church of Canada be printed as an appendix to this day's proceedings. (*See Appendix "BB"*)

At 1.40 o'clock p.m., the Committee adjourned to Tuesday, December 19, 1967, when it will meet *in camera*.

TUESDAY, December 19, 1967  
(17)

The Standing Committee on Health and Welfare met *in camera* today at 11:15 o'clock a.m. The Chairman, Mr. Harry C. Harley, presided.

*Members present:* Mrs. MacInnis and Messrs. Brand, Chatterton, Cowan, Enns, Forrestall, Harley, Howe (*Wellington-Huron*), Isabelle, Knowles, Matte, Orange, Rock, Rynard (14).

On motion of Mr. Knowles, seconded by Mr. Brand,

*Resolved*,—That the Committee present an interim report to the House.

The Committee considered a draft interim report, which was adopted on the following division: FOR: Mrs. MacInnis, Messrs. Brand, Enns, Forrestall, Howe (*Wellington-Huron*), Isabelle, Knowles, Matte, Orange, Rock, Rynard (11); AGAINST: Messrs. Chatterton, Cowan (2).

The Chairman was ordered to present it to the House as the Committee's First Report.

At 12.50 p.m., the Committee adjourned to the call of the Chair.

Gabrielle Savard,  
*Clerk of the Committee.*

## EVIDENCE

(Recorded by Electronic Apparatus)

Thursday, December 14, 1967.

• 1119

**The Chairman:** Ladies and gentlemen, we will now start today's meeting. Before we actually start on the examination of the witnesses who are before us today I would like to mention, as no doubt you noticed from the schedule of meetings, that we had a meeting scheduled for tomorrow morning. However, the gentleman who was to appear before us did not have his brief prepared in time to forward it to the Committee and he wished to present it in person. As I felt this was not in keeping with what we had laid down we have cancelled the meeting for tomorrow and he will come before us at a later date. Therefore there will be no meeting tomorrow. The next meeting will be held on Tuesday. I wish to remind you that that meeting will be to discuss the future role of the Committee, and it will be held in camera.

**Mr. Enns:** Mr. Chairman, before you move on, I believe at the last meeting reference was made to the number of letters received by this Committee and that you would undertake some tabulation.

• 1120

**The Chairman:** Yes, we will do that and I will try to have those figures for you on Tuesday.

**Mr. Cowan:** Were you able to get an authentic background for those Japanese figures?

**The Chairman:** Not as yet, no, and therefore it is not presently proposed to make them part of the record.

**Mr. Cowan:** I merely raised the point because I was a little dubious.

**Mr. Chatterton:** Have you covered the question of the meetings on January 11, 16, and so on?

**The Chairman:** This will depend on whether the House is sitting, or if the Committee is

given permission to sit while the House is not sitting. If the Committee is in agreement with holding meetings when the House is not sitting, in a week we could probably clear up most of the witnesses that are still to appear before us. No plan has been made as yet. Perhaps we will know by Tuesday when we have our meeting in camera, we can discuss it then.

**Mr. Knowles:** Consideration might be given to getting permission to sit while the House is not sitting, if we wish to do it.

**The Chairman:** I think this is being considered. It is something that we can talk about. I know it was mentioned in various areas that any committee that wished to sit while the House was not sitting would be given blanket permission to do so.

**Mr. MacDonald (Prince):** We would have to consider it before next Tuesday, would we not? It would be rather late by next Tuesday to make that decision and get it through the House.

**Mr. Knowles:** Mr. Chairman, if I may say so, it used to be possible to sit during adjournments without asking the House for permission, but a ruling was made a year or two ago that seems to stand in the way of it. I am afraid that ruling has been supported by the fact that few committees have sought permission. I might suggest that we seek it, although at this point we will not make a decision on whether we will use it or not.

**The Chairman:** If we met on Tuesday I am sure we could actually have a report into the House by Tuesday afternoon in time to get that permission.

**Mr. MacDonald (Prince):** Do you think that is time enough?

**The Chairman:** Yes, I think so.

**Mr. Knowles:** Provided nobody refuses the unanimous consent.

**The Chairman:** We would still have two days.

If there are no other questions on procedure we might proceed to the examination of the witnesses before us today. We have with us this morning a delegation from the Anglican Church of Canada. A great many members of the Committee will recognize a good number of these delegates because they were before this Committee previously when we were dealing with another subject and one which bore some relationship to the subject we are now discussing.

I would first like to introduce the Reverend Canon Wilkinson who chaired the committee that prepared today's brief.

**The Reverend Canon Maurice P. Wilkinson (Anglican Church of Canada):** Thank you, Dr. Harley, and members of the Committee. It is a great privilege once again to appear before you. I am going to ask the Bishop of Ottawa, Bishop Reed, if he would introduce the members of our delegation, after which I will make a brief introductory statement about the brief that is before you.

**The Right Reverend Ernest S. Reed (Bishop of Ottawa, Anglican Church of Canada):** Mr. Chairman, ladies and gentlemen, I will be pleased to introduce the members of our committee. On my right, Mr. Chairman, is Dr. Cairns, an obstetrician and gynaecologist who has sat on abortion committees. Next to him is Dr. Feilding, who is a professor of Moral Theology. We then have Dr. Paul Christie, psychiatrist; Dr. Morley, medical officer, Child Health Services; Professor Gordon Watson, Professor of Philosophy of Religion; Mr. Gwynne-Timothy, Queen's Counsel. He is one of the lawyers on our committee. In the rear row—I was going to say pew—we have Professor Stackhouse, Professor of Religion and Ethics; Mrs. Edinborough, housewife and nurse; Dr. Sidgwick, medical doctor and then, the Reverend Robert MacRae, priest and social worker.

Mr. Chairman, these are the members of our committee who prepared the brief who were able to appear before the Committee this morning.

**Rev. Canon Maurice P. Wilkinson:** Thank you, Bishop Reed. As Bishop Reed has indicated, this delegation is only part of the total committee which is listed on the initial

page of the brief. If you look at the qualifications of that group you will see the considerable care with which the group was put together to give as comprehensive and balanced a view of all aspects of the problem as it was possible to achieve. I might add as a comment that the attendance of the group at the meetings was a little short of remarkable and their participation was 100 per cent. There were contributions from all of them, so as a result a great deal more was written than was finally distilled and presented to you.

The process of producing this brief dates further back than the time of the appointment of this committee. It actually goes back about three years, when an initial working group did a piece of work on this and it was received by the church's department of social service. While it was a good contribution, it was only considered as an initial stage and it was not satisfactory for our total purposes, hence the much larger and more comprehensive group was established. Perhaps I should point out that it was at the request of the General Synod, which is the church's senior legislative body, that specific emphasis was put upon participation in the committee by such, if you like, "grass roots" voices as those of parish priests, housewives and the nursing profession. These people were included in the thinking, although that had not been presented to the General Synod, and it was heartening to get this kind of a response from the concerned group at large.

Perhaps I should close, Mr. Chairman, by suggesting that in our judgment the most specific recommendations in our brief are those contained in paragraphs 9, 13 and 16, and that as church persons we also place equal emphasis upon paragraphs 10 and 11, which deal with the moral and ethical recommendations, with the technical recommendations in the other paragraphs.

We should be happy to answer questions and enter into discussion with you, sir.

**The Chairman:** Thank you very much, Bishop Reed and Canon Wilkinson. The meeting is open for questioning.

**Mr. Stanbury:** Mr. Chairman, I apologize for being late. I have read the brief but I hope I did not miss anything in the presentation.

The list of people who took part in the preparation of this brief is quite impressive and I think it will obviously recommend

itself to us as being very carefully and responsibility thought out. However, it is somewhat unclear to me exactly what the limits of the reforms are which you recommend. You seem to base the criteria which you are suggesting to us on grounds of health but you imply in at least one place, and I think perhaps in more than one place, that there are social factors which should be taken into consideration in deciding whether or not an abortion should be permitted. I wonder if this could be expanded a bit and explained for us.

**Rev. Canon Maurice P. Wilkinson:** I think two members of our group are particularly interested and competent in this, Dr. Christie and Dr. Morley.

• 1130

**Dr. Paul Christie (Psychiatrist):** Mr. Chairman, with respect to Mr. Stanbury's question, I think the key line in the brief appears in paragraph 13. The sentence reads:

Health in this context is to be understood in its broadest sense.

I think health as understood now by public health people, mental health people and organic medicine, always does include social factors. Social factors are one of the groups of causes which either promote, or interfere with, health. But we are saying that it is only when such relationship can be demonstrated that those factors should be part of the grounds for termination of pregnancy.

**Mr. Stanbury:** Would you mind giving me some examples, sir.

**Rev. Canon Maurice P. Wilkinson:** The example of a harried, low-income housewife with more children than she has housing for, with a husband who is perhaps unemployed and himself sick. These are the kinds of social factors which we see involved in health breakdown in a great many cases, mental and physical.

**Mr. Stanbury:** Do I understand correctly that you are suggesting that a therapeutic abortion committee would be justified in authorizing an abortion in a case where the health of the pregnant woman was likely to be affected by the social consequences of the burden of her child?

**Dr. Christie:** That is, I think, a fair statement. Other members may wish to comment on it.

**Mr. Stanbury:** Could you give us any more help on the degree of effect on her health which you would feel would be required before such permission would be justified?

**Dr. Christie:** In brief, we are not thinking of a trivial effect. The term "life or health of the mother is seriously threatened" would imply the probability of a major breakdown in health and not simply a state of somewhat impaired health.

Perhaps some of the other medical members wish to comment on that.

**Rev. Canon Maurice P. Wilkinson:** I am not a medical member, but paragraph 9 certainly contains the kind of qualifying statement to which Dr. Christie is referring. There we quite clearly state that we should not use abortion as a social measure.

**Mr. Stanbury:** I find these somewhat conflicting and almost mutually exclusive. That is why I am interested to know what meeting ground you envisage between these two somewhat conflicting principles which you seem to be putting forward.

**Rt. Rev. Ernest S. Reed:** The principle is quite clear that abortion should not be used to solve economic and social problems which should be solved in other ways; and the committee feels that every supportive service should be given to people so that they do not have to make decisions of that kind. Reference to this is made in the last section 20. Granted, you still have the situation that Dr. Christie referred to, where a committee on abortion in a hospital may reach a decision that the total health of the mother is going to be seriously endangered by a pregnancy, and the committee should have the authority to adjudicate and reach that decision.

Dr. Cairns, who sits on a committee of this kind may wish to amplify that statement.

**Dr. J. David Cairns (Obstetrician and Gynaecologist, Anglican Church of Canada):** Quite briefly, Mr. Stanbury, I would like to endorse what Dr. Christie has said.

It might make it clearer to you if we were to say that these indications for abortion are not reached until the patient has consulted her family doctor, or has been referred by her family doctor to a neighboring psychiatrist with a degree of emotional upset, and the latter apparently has many causes.

Psychiatric or emotional disease frequently does not stem from one cause. There are

many factors that contribute towards it. The sort of situation that Dr. Christie has outlined is not too uncommon. There are factors arising from a disruption of the marriage, from overcrowding within the house and from insecurity because of low income; and factors probably arising from a basic insecurity in the development of the particular woman.

• 1135

What is interesting in these individuals is their failure to cope under these circumstances. I think what Bishop Reed had in mind is that abortion is not an answer to this problem because infrequently in these situations you find the mother who is able to cope perfectly well with five or six children, sometimes under circumstances that would dismay you or me. However, there are individuals who, in this situation, break down and these are the sorts of circumstances that would come before a therapeutic abortion committee and which we as part of the medical profession would like to have this coverage so that we could approach these individuals and say that on the recommendation of our psychiatric consultants we would like to terminate the pregnancy because we feel the health of the patient was seriously threatened.

**Mr. Stanbury:** I suppose it depends on how you define "social" and how you define "health". It strikes me that perhaps the kind of case that you have indicated would justify a finding of "serious effect on health" would not then be a serious social problem. Do I understand, then, that you reject the new British law which is said to include a social criterion for approval of abortion.

**Dr. Cairns:** Are you asking me, Mr. Stanbury?

**Mr. Stanbury:** Whoever is answering the questions for the committee, or group.

**Rev. Canon Maurice P. Wilkinson:** I am not sufficiently familiar with the details of the British legislation to be able to speak accurately on it.

Dr. Cairns may have something to say on it.

**Dr. Cairns:** Without having a copy of that particular legislation before me it is rather difficult to answer, but...

**Mr. Stanbury:** Perhaps we could put one in front of you if you would like to have it.

**Dr. Cairns:** Could you show me the particular paragraph that you have in mind?

**Mr. Stanbury:** There are different interpretations of the British Act, too. It is very new.

**Dr. Cairns:** The important aspect of this particular situation is the ability of a mother to "manage" under a particular set of circumstances.

I suspected, from your opening remarks that you possibly regretted that we had not been more specific in listing the indications for abortion and that it had not been spelled out too precisely when an abortion would be done. Certain briefs have been submitted, certain suggestions have been made that abortions would be done under certain situations but not under others. I think it is fair to say that our committee did not feel that this sort of problem was amenable to that type of rule and regulation.

**Mr. Stanbury:** I think I tend to agree with that approach, but what I really wanted was clarification of the general lines that you were recommending.

**Dr. Cairns:** These are under the heading "Serious Threat to Life and Health".

**The Chairman:** Perhaps, Dr. Cairns, we could leave you to look at that and come back to it.

**Mr. Stanbury:** I am interested to know whether...

**The Chairman:** Is this your last question, Mr. Stanbury?

**Mr. Stanbury:** I am curious to know why it should be when no one else is ready to question.

**The Chairman:** I have a very long list.

**Mr. Stanbury:** I waited for several minutes because I was late in arriving.

Let someone go on, then, and I will come back later.

**Mr. Knowles:** Mr. Chairman, my line of questioning was to be almost the same as that of Mr. Stanbury, so perhaps I can carry on for him.

First of all, may I say that from reading your rather excellent statement in paragraph 11 I feel that meetings of your committee must have been not unlike the meetings of this Committee. You were trying to find a

position somewhere between abortion on demand and the absolute prohibition of abortion in all cases. If I may presume to comment on the problem of this Committee, it is to find where that line is.

• 1140

Like Mr. Stanbury, when I read your brief I was a little concerned with harmonizing the apparent finality of paragraph 16, where you say that abortion must be limited to cases where there is a—

... serious threat to the life or health of the expectant mother.

—with paragraph 13 which suggests that:

Health...is to be understood in its broadest sense.

Depending on which paragraph I am reading I am encouraged or a little discouraged. Where is the paragraph that says it should not be used to solve social problems?

**A Witness:** Paragraph 9.

**Mr. Cowan:** Tell Mrs. MacInnis about that paragraph, will you?

**Mr. Knowles:** She will be here in a minute.

**Mr. Cowan:** That is good.

**Mr. Knowles:** Would it be fair to put this interpretation on paragraph 9: that abortion shall not be used simply to solve social problems of the kind that you have named but where those social problems affect the health of the mother then abortion could be indicated.

**Rev. Canon Maurice P. Wilkinson:** May we ask Dr. Feilding to respond to this one?

**The Reverend Dr. Charles R. Feilding (The Anglican Church of Canada):** Thank you. Mr. Chairman, there is a formal reply which can be made to Mr. Knowles' admirable question in the last line of paragraph 13 and this is the formal solution to this problem at which the committee arrived. When you are considering social and economic circumstances the question is not how bad are the circumstances, but can this woman deal with them. So the circumstances may be very bad or not very bad. The question which determines the whole issue that the obstetrical committee will have to consider is: If this woman carries this child to term, with the result that she bears it, and then is completely incapable of looking after five other children with the result that a whole lot of human life is

threatened, can she cope with these conditions?"

The point which I think the committee has been careful to make, Mr. Chairman, is that termination is never justified merely by social circumstances but is only justified if the woman is unable to cope with them, which is I think clearly stated in the last sentence of paragraph 13. Just as a matter of logic, if I may say so, I think that is the sentence which brings these two positions together and resolves the problem you have put before us.

**Mr. Knowles:** I think, Mr. Chairman, not only is the last sentence of paragraph 13 excellently put but that you, sir, have put it very well now in pointing out that it is a matter of the relationship between the woman and the conditions. This is very helpful to us in thinking about the problem but what happens when we try to put this in the form of legislation?

**Rt. Rev. Ernest S. Reed:** Our committee has said that in legislation the kernel of our recommendation is paragraph 16.

Specific indications can better be left to the scientific and moral judgment of the doctors responsible for the decision and for the operation, in consultation with the patient and, where relevant, with her husband or responsible guardian.

In other words the law ought to give a clear statement to doctors in a responsible hospital setting to make that kind of decision because they are the ones best able to make it in terms of the life and health of the mother.

**Mr. Knowles:** Again, Bishop Reed, this is very helpful but may I pose the problem as I see it? You seem to want the legislation to give only the life or the health of the mother as the reason and you want any decision left to the moral and scientific judgment of the doctors.

• 1145

In view of the fact that in other statutes there are social clauses, such as in the British legislation, if we give the doctors a piece of legislation that says only the "life or health of the expectant mother" what authority do we give them in that legislation to make the kind of excellent interpretation you have made here. You see, we cannot put all your speeches into the legislation.

**Rt. Rev. Ernest S. Reed:** I think the doctors have an understanding of what total health means. Dr. Christie has given a brief explanation of this and he might like to expand on it. I think doctors in a responsible hospital setting in terms of a therapeutic abortion committee do have at their disposal the kind of knowledge of what total health and life mean for the mother at that point. They always make their best judgment about any operation in regard to that and we are saying they ought to have the same right by law to make the same judgment in regard to this kind of operation. This ought not to be done by unauthorized persons and the law ought to be very clear about illegal abortion or abortion not done in that setting.

**Mr. Knowles:** In other words the apparently restrictive language of paragraph 16 is qualified by the judgment you give to the doctors and a doctor may on the basis of the language you suggest and in the light of his judgment have fairly wide latitude?

**Rt. Rev. Ernest S. Reed:** I think that is true if by "wide latitude" you mean the concept of health and life, not his own wishes about the matter but his judgment about the life and health of the patient.

**Mr. Knowles:** In the terms that you have presented today.

**Rt. Rev. Ernest S. Reed:** Yes. Dr. Christie, I think, is going to amplify the statement I just made.

**Dr. Christie:** I think this is the concept of health which doctors of all specialities and in general practice are increasingly using. It is a broad one. There are social features and factors in every health condition, there are social implications to every medical act, and these automatically have to be taken into consideration.

**Mr. Knowles:** I do not want to pin any of you down to the British legislation even though you have it now in front of you, but some of you would then say that under your language the same things could be done that might be done under the British law?

**Dr. Cairns:** May I answer that? I think what Mr. Stanbury had in mind was the section here that dealt with the threat to the health not only of the pregnant woman but of any existing children or her family greater than if the pregnancy were terminated—the extension beyond the mother and embracing

the family concept. In our committee we discussed the ability of the mother to care for her children and this has been ably expressed by Dr. Feilding. I think what has been said now by Dr. Christie and by Dr. Feilding would bear out that we would accept this type of indication.

**Mr. Knowles:** Thank you, Mr. Chairman.

**Mr. MacDonald (Prince):** May I ask a supplementary on the questions Mr. Knowles has been asking? In your argument for this balance, if you like, in respect of the social problems that exist jeopardizing the health of the mother you use this key word "cope" in terms of interpreting whether or not the mother is physically and mentally able to cope with the situation. It does seem to me that the use of this formula would lay a tremendous amount of responsibility on the medical staff of a hospital and also would leave to their discretion a great deal of subjective judgment. Even though you suggest in an earlier statement that you are trying to find some position between the two extremes of abortion on demand and the prohibition of abortion in all cases, I wonder if, in suggesting the formula you have laid out here, we are not going to have almost a situation where a mother could put up the strongest case at a particular time during her pregnancy when she may be in more difficulty than at another time. You mention in the brief not

only the medical judgment but the moral judgment of the doctors and I think, if Mr. Knowles is suggesting seeing some kind of a formula like this in legislation, that in effect we are going to be very close to a situation of abortion on demand.

• 1150

**Rev. Canon Maurice P. Wilkinson:** Both Dr. Sidgwick and Dr. Cairns wish to speak to this, if they may.

**Dr. Mary Sidgwick (General Medical Practitioner):** In our meetings we referred over and over again to the fact that we never envisaged that a woman in these circumstances would have repeated abortions. We hope the situation would be that perhaps she might need one abortion, and after that the desirable situation would be that she be given advice on contraception or possibly she should be sterilized and then the situation where she would need another abortion would never occur. First of all, of course, if

we could legalize contraception and sterilization she might never need this one abortion. I really think we are considering the subject of abortion too early. We should first legalize contraception.

**Dr. Cairns:** I would like to say how much I appreciate Mr. MacDonald's remarks in this regard. The moral responsibility of any therapeutic abortion committee in regard to deciding whether an abortion is done or not is tremendous. One hardly knows whether this should be a human responsibility or not. Our training by and large has been for the preservation of maternal and child welfare, and the idea of terminating life is generally speaking an odious decision. The question remains, as stated in the brief, as to whether the right of the foetus to survive when the right of the mother to survive is imperilled, is not equally important. Generally speaking I think the medical profession has been criticized for doing too few abortions. One is obviously going to be criticized from one side or the other but generally speaking we have been regarded as a rather reactionary group in regard to performing abortions, but I think you could almost be assured at this time that it is most unlikely, on the recommendations that we have suggested, that any therapeutic abortion committee would be stamped into doing abortion on demand.

**Mr. MacDonald (Prince):** That was not entirely the point of my question. I am concerned that there would really be no very clear definition laid down. Almost every abortion that is considered would really fall on the particular attitudes of that abortion committee. In other words, I suppose some hospitals would gain reputations for taking a very lenient view and others might take the view that you have suggested. I wonder if it is fair to either the people who are in a position where they need an abortion or to expect hospital staffs to be put in this kind of position.

**Rev. Canon Maurice P. Wilkinson:** May I respond to this, Mr. Chairman? I have two observations to make. First of all, the question of demand is seriously qualified immediately by what is stated in the brief, that it has to bear upon the health and life. This places a major block in the way of mere selfish request and interpretation of demand.

**Mr. MacDonald (Prince):** If I may interrupt at this point, you interpret health to mean ability to cope, is that right?

**Rev. Canon Maurice P. Wilkinson:** Right. Secondly, paragraphs 17 and 18 contain suggestions for these being carried out by the abortion committees of accredited hospitals and it seems to me that the recording of these decisions, provides the very essential items for, first of all, ensuring responsible practice of this principle and, secondly, a testing device whereby it may be assessed from time to time. One of the things which is not stated in the brief, but which was abundantly clear from our discussions, is that with due respect to your skill as legislators you will not be able to propose a bill which will solve this matter *ad infinitum*, and if you are going to make good amendments in future you need good data on which to do it.

**Mr. Cowan:** We will not solve it *ad infinitum*. I thought we were going to.

• 1155

**Mrs. Rideout:** Mr. Chairman, I would like to refer to the seventh paragraph of your brief, where you suggest:

A thorough and widespread programme of family life education...

is desirable. I wonder if you would mind telling me very briefly if the Anglican Church is undertaking such a program in relation to the young people?

**Rev. Canon Maurice P. Wilkinson:** If you would ask Bob MacRae, who has primary responsibility for this in our church, I think you would get a much fuller answer.

**The Reverend Robert D. MacRae (The Anglican Church of Canada):** Mr. Chairman, the program of family life education which the Anglican Church is now embracing is very much in the developmental stage. We are progressing across Canada in an attempt to train leaders who will not only be knowledgeable about family life and not only be knowledgeable about the social, psychological and moral aspects of family life, but who will also be sensitive to the relationships in families which so seriously affect the kind of life a person leads. We work in close co-operation with a number of the family-life-education councils in Canada which have been established, and with others which are in the process of being established, and with institutions such as the Vanier Institute of the Family. In our experience we see very clear evidence that a thorough program of family life education could embrace some of the

considerations that we are concerned about today and in particular it could include a program of family planning, but only in the context of the total family life and not an individual application.

**Mrs. Rideout:** This paragraph is very interesting because I recognize our responsibility as a committee of not only looking into the Criminal Code with respect to abortion but also the recommendations of the Committee in so far as changing the Criminal Code for the sale of contraceptives is concerned. We have the responsibility of legislating and I think you have admitted here that you also have a responsibility with not only the young people but with people who are not aware of the assistance which they can receive with the changes that are here today, I was very interested in this particular recommendation in your brief.

**Rev. Robert MacRae:** We feel we have a good deal of responsibility in this area but every program of family life education in Canada requires massive assistance. It was our point to emphasize this to the nth degree.

**Mrs. Rideout:** Do you consider there is a new feeling and a new acceptance by people of the necessity for this sort of thing more so than before?

**Rev. Robert MacRae:** Very much so. There is explosive interest in the area. We cannot possibly answer the calls that are made upon our resources in the area of family life education.

**Mrs. Rideout:** Thank you very much.

**Rev. Canon Maurice P. Wilkinson:** Gentlemen, I think Mrs. Edinborough would like to add something. She has been an active worker in this field and she is also a nurse.

**Mrs. Leitia M. Edinborough:** I would just like you to know that the Planned Parenthood Association of Toronto has a clerical committee as well as a medical committee, and the clerical committee has been most helpful. It had many, many committee meetings and we have literature on what the churches say and there is a great demand from the public for this literature and certainly the churches use it.

**Rt. Rev. Ernest S. Reed:** Mr. Chairman, it might be of some interest to this Committee to know that the first research project of the Vanier Institute of the Family is designed to make a study of the question which Mrs.

Rideout mentioned. They have just begun a research project on the amount of family life education that is going on in Canada and the worth of it. The results of that project may be of interest some day to this Committee.

• 1200

**Rev. Dr. Feilding:** Mr. Chairman, may I be allowed to give a supplementary answer to Mrs. Rideout's question? Some indication of how seriously the churches are taking this can be seen in the fact that two years ago we established in Canada a Canadian council for supervised pastoral education which is gradually building up centres for the training of clergymen of all churches and when I say "all", I mean Protestant and Catholic.

These centres are largely in general hospitals, mental hospitals and counselling institutes of one sort or another. These are serious training programs in which the teaching is interprofessional—doctors, social workers, clergy and all kinds of people are involved in the training. This is a continuing education program which is available not only to students now in seminary but also to clergymen of all churches on a continuation basis after they are in the ministry.

I may also say that in this process we have more applicants than we are able to deal with so that I would like to make it very clear that the kind of thinking you see in this brief does come from people who are deeply engaged in education of this kind.

**Mr. Enns:** Mr. Chairman, my first comment would be to commend the thoroughness with which this brief was brought before us. We may say that in some of the briefs we wonder if it is an individual's opinion we are getting or is it really a constituent expression, and here we have heard how well documented the different arguments are. It seems to me, among the 20 or more briefs that have been received by this Committee, that by this brief you are adding to the weight of argument that will lead to a recommendation for the liberalization of abortion laws.

I wonder if Dr. Morley would speak to my question further about what technique was used in getting this very solid constituency opinion when I refer to the churches, if I may. Was there any way of trying to single out women's attitudes towards this question and here I mean women of the church?

**Dr. Helen M. C. Morley, (Medical Officer, Child Services, Borough of East York):** I was wondering why Mr. Enns had thought of me. Now I see why. I think as far as I...

**Mr. Enns:** I think you show that and I was wondering if you did.

**Dr. Morley:** As you see, about a quarter of the committee were women, in total. I think there were times when more than a quarter of those present at meetings were women so that we were fairly well represented on the committee; considerably better represented than on some of the other committees in other parts of the world.

**Mr. Enns:** There were no techniques such as a referendum or submissions from women's groups requested by your committee, then?

**Dr. Morley:** No. I think we considered it but, as you know, we had very little time to prepare this. I think this would probably have been an ideal situation. Speaking personally and talking among my friends, I would say that women are considerably more liberal about this than are men.

**Mr. Enns:** I am very interested. This is the kind of question I wanted to put to you next and I also wanted to ask you, then, do you think clause 13 which contains the meat of the recommendation would meet what you would guess to be the women's belief in the attitude toward abortion, that of limiting the operation of abortion only on grounds of the broad definition of health that we have already had explained? Do you think the women of Canada would find this an acceptable condition?

**Dr. Morley:** I think they would if we accompanied this with education. Many women would have to understand what we here mean by the total concept of health, the World Health Organization concept of health, which I personally find very helpful and perhaps you would too. It is the physical, mental and social well being and not merely the absence of disease or infirmity. I think perhaps the general public does not realize that this is what we of the medical profession are using in our concept of health. We, as doctors, understand this but perhaps the women of Canada do not. If in some way we were able to give them this concept of health and if they knew the sort of grounds upon which they might be able to obtain a thera-

peutic abortion, this would perhaps satisfy them.

**Mr. Enns:** I think in the popular definition of health, or some persons would really be concerned that it be limited only to that, but knowing how it is meant in your brief, I think there would be much wider acceptance.

May I turn to Canon Wilkinson and ask him about the Christian tradition that is meant to be upheld in the brief. You have referred us to the pamphlet, *Abortion, An Ethical Discussion* which was prepared by the Church Information Office in England. We see, as we look at that and study the Church's evolutionary practice in attitudes toward social issues of the modern age, that this is a dynamic thing. It is not a static tradition. I am sure the Canon would agree with that. Therefore, there is no conflict between the recommendations contained in clause 13 and the "Christian tradition". Am I correct here?

**Rev. Canon Maurice P. Wilkinson:** I would not say, Mr. Chairman, that there is no quarrel. In large segments there is no quarrel; in other important segments there is. This is partly why we prefaced our total brief with the paragraph 3 in which we attempted to draw out both the dynamic nature of the Christian tradition that you refer to and some of the factors in that dynamism. In this answer I would like to request that Dr. Feilding and Professor Watson speak particularly to your question for this is in their field of competence and Dr. Stackhouse may like to add something to this as well. They are all moral theologians.

**Rev. Dr. Feilding:** Mr. Chairman, the Christian tradition as it is usually understood is simply that abortion is first of all a euphemism. What we are talking about is killing fetuses and we do not like talking about that so we call it abortion. The Church has been traditionally against it on the grounds of "Thou shalt not murder" and the problem simply is that murder is killing when killing is wrong. The problem is: when is killing wrong? "Thou shalt do no murder" and "thou shalt not kill" are not exactly the same thing. Not murdering is not killing when it is wrong to kill.

So the problem has always been. It is not a novel problem, not a new problem in any sense. The problem is where to draw the line in morals. Your problem, Mr. Chairman, if I may say so, is where to draw the line in

legislation. What can you do in legislation and when does legislation have to stop and morality begin? So I think that is really the background of the whole discussion. We do not think there is anything new about it.

What we have done is to point out without troubling, I think rightly, to produce a whole discourse on the history of thinking about abortion, simply to say that decisions that have been made about abortion in the past have been made on inadequate evidence; we know more than we did before. The earliest tradition about abortion is based not on biological data at all but on metaphysical ideas which sprang from Aristotle, odd sort of ideas about when a soul is popped into a body or when does life begin. These questions were not answered in those days by biological research. They were answered in an entirely different way which is completely unsatisfactory to everybody—theologians and everybody else today. So we are compelled to look at this situation again.

• 1210

Mr. Chairman, if I have rattled a bit, I think I had better stop. If the question could be readdressed to me in a more pointed manner, my colleagues or I will have another shot at it.

**Mr. Enns:** I want some reinforcement for my conscience by the assurance that the Christian tradition is really not challenged by what I hold to be very much in line with your own recommendations. I am not challenging your recommendations, but perhaps I and others want some comfort in knowing that we are acting within the Christian tradition and I think you have helped in this regard. I suppose we see this tradition moving forward, if you want to call it tradition. There was reference made that while this was dealt with in ecclesiastical courts before the 19th century, part of the tradition also seemed to be whipping, life imprisonment and some of the other things. If this is part of the tradition, I am glad that it is evolving and changing.

**The Chairman:** I think there are two other gentlemen who wanted to comment on that aspect of your question. Professor Watson might perhaps have something to add.

**Professor Gordon A. B. Watson (Philosopher):** Mr. Chairman, the comment I wish to make is just this. It is also within the Christian tradition to be discomfiting and conten-

tious at times. What Canon Wilkinson was saying was that there will be segments within the Christian Church who would resist change of the kind that we are suggesting simply because it is a human community and there are these kinds of people in it. We gain comfort, if it is comfort and assurance we need, from the fact that we are trying to face reality more squarely and trying to keep up to date with the general enlightenment and scientific and moral advances and so on. In doing this, of course, we always make enemies. We make enemies of those who do not understand, who cannot come to grips with realities too well, and so on.

It would be a mistake, I think, to leave the impression that the whole of the Christian Church is singing strongly behind us without a dissenting voice. But it is part of our proper job to dissent when we believe the time has come to do so.

**Mr. Enns:** I have finished, Mr. Chairman. I had a question regarding the value judgment expected from the medical profession in defining the broad terms of health, but I think the questions as asked by Mr. MacDonald were dealt with, so I will pass.

**Mr. Rock:** Your Grace and Canon Wilkinson, ladies and gentlemen, may I first commend you on the formation of your committee, especially on its make-up, which represents so many fields of endeavour, and also on the form in which your brief was written. I think it is one of the best briefs that have been presented to our Committee.

However, it seems that your brief takes for granted that all pregnant women are married. You have not covered unmarried pregnant girls who might wish to terminate their pregnancies, or who might wish to go through with their pregnancies and put their children up for adoption or even keep their children, although not married. Have you anything to say with regard to the single girls who have this problem?

**Rev. Canon Maurice P. Wilkinson:** May I just ask, in response, Mr. Chairman, where Mr. Rock gets his conclusion? As far as we were concerned, we were dealing with pregnant women period; married or otherwise. Where do you draw the conclusion that it deals with only married women?

**Mr. Rock:** In your brief, you emphasized the case of women who have more children then they can cope with but do not seem to have touched upon the single girl who is in a

different predicament from the married one. When I read your brief, this is the question that came to my mind. It does not seem as if you have touched upon this aspect of it at all. You have put everything in general terms and sort of excluded the idea that the plight of a married woman who is pregnant and does not want her pregnancy to continue is not the same problem as that of a single girl who is pregnant. You have put everything in general terms. I would like to know the opinion of any of your committee members with regard to the plight of a single girl and what she has to face in comparison with a married woman who does not have the same problem.

• 1215

**Rev. Canon Maurice P. Wilkinson:** Before I refer this question to Dr. Cairns, who is a member of such a committee in his hospital, may I just suggest that we are not drawing any conclusions that an unmarried mother is not facing the problem of how many more children she can support. Those of us with any engagement in social work know that many of them have equally large families with no resident, observable husband in the offing. I think you are making a conclusion and implication that we have not done in our brief. With that comment I would ask Dr. Cairns to take over.

**Dr. Cairns:** Mr. Rock, I may not have understood your question fully, but as I interpreted it, you felt we had drawn a line between the married and the single patients. This would be most unfortunate if it were true.

**Mr. Rock:** No, I do not think you have drawn a line. No line exists, but you have taken...

**Dr. Cairns:** May I put it this way. In the discussion that opened this meeting, a good deal of emphasis was given to the plight of the mother with too many children. We drifted into this because of the general interest of your Committee in the socio-economic clause that was included in our brief. However, it must be remembered that the prime indication for performing a therapeutic abortion is a serious threat to the mother's life or health. In there it does not stipulate whether the mother is married or not.

I have in front of me a very interesting report for the Toronto General Hospital, which you have possibly heard before at

another hearing, which states that 30 out of 250 women who were aborted on such grounds were, in actual fact, single. If a single girl should appear before our therapeutic abortion committee with a strong recommendation for termination by a psychiatrist, say, the fact that she was single would make no difference to us.

Does that answer your question?

**Mr. Rock:** Yes, but I would still like to know what your outlook would be toward the new legislation that we intend to adopt. Taking into consideration only single girls who have a problem, do you think that they should have the choice of either accepting the fact that they are pregnant, continuing the pregnancy and keeping the child in spite of all the problems, or of terminating the pregnancy? Would you give the one who wanted to terminate her pregnancy the right to do so, or do you feel that we, here, should not give her that right?

**Dr. Cairns:** I think that this question should be answered, possibly, by Dr. Christie because we are moving now into the emotional response of the single girl on finding out that she is pregnant, irrespective of whether she has any background of disease whatsoever. It is terribly important that you should be straight on what we feel about this particular problem.

**Dr. Christie:** I think, Mr. Rock, that during all of our committee's discussions we covered many different potential situations—rape, incest, young girls, middle-aged women, and so on. We did put them all together, as you said, because, in fact, this is not any little encapsulated and neatly definable problem. The only factors they all have in common are, first, the female sex and secondly, being pregnant. The number of possible conditions and threats to health is enormous. So we took the attitude that having given this rather global definition which, however, rests on a concept of health that, as Dr. Morley has pointed out, is becoming pretty general throughout the health profession, any conceivable situation could be covered under this kind of legislation. And certainly, as Dr. Cairns says, there are situations of young girls finding themselves pregnant for the first time where there is a very clear threat, on psychiatric grounds, to health or life, with histories of serious depression, suicidal attempts and so on. But not just on demand!

We have said already in the previous clause that we do not support abortion on demand for the young single girl or anybody else.

• 1220

**Mr. Rock:** I also note that you have not given any consideration in your brief to reducing the number of illegal abortions that occur each year in Canada. What type of legislation do you recommend to reduce illegal abortions, which is one of the greatest problems in Canada today. I do not believe what you are suggesting now will actually reduce the number of illegal abortions.

**Rt. Rev. Ernest S. Reed:** Mr. Chairman, I think this was the haunting question that kept coming before us throughout our discussions which extended over quite a period of time, and we do not have any easy answer to that question. We do think though that if legislation of this kind were passed which would make therapeutic abortions legal in the kind of setting that we described and if this were generally known in the country that people would be more apt to apply for abortion in those circumstances.

This still leaves the very big question that Mr. Rock has raised, and certainly those who are involved in the legal aspects of this more than we are will have to find the answer to that question. Is the law being properly enforced to ensure that people who practice illegal abortion are in fact convicted? This is a very important part of the law and it certainly needs to be emphasized. As a church we did not feel that we had any special insight into law enforcement in that sense. However we do recognize the problem and we agree with you that it is a very important one, and generally speaking we feel that if the law were made clear along the lines of our brief it would likely reduce some illegal abortions. But along with this must be of course a very clear enforcement of the law against those practicing illegal abortions. Mr. Gwynne-Timothy on our committee has been most helpful to us and may wish to add something to what I have said.

**Mr. Gordon R. Gwynne-Timothy, Q.C.:** Mr. Chairman, all I can say is that we all share that view. We recognized from the beginning that our brief was not going to cover the very problem you have raised. The code, as it presently stands, may be adequate for the purpose of enforcement but it may not be

enforcement so much as education which is necessary. Although it is a difficult problem we simply could not come forward with a solution to it. We hoped that the bases of our brief would, as the Bishop said, allow more people to go to hospitals for legal therapeutic abortions.

**Rev. Canon Maurice P. Wilkinson:** Mr. Chairman, you will recognize of course that the brief itself approached this at two points: where it stated that legalized therapeutic abortions, which is a very important thing in Canada, should be done in an accredited hospital, and that steps be taken to prevent abortions being performed by unqualified persons. As Bishop Reed has said, a committee of any church simply has not sufficient data in front of it to draw the kind of regulations that are required. There is the implication however that they should be performed by qualified persons, there is the specific request that they should be done in accredited hospitals, there is also our again-repeated request for legalization of birth control measures and such, which has a very large preventive aspect to it as well. Mrs. Edinborough would like to add a word here too, if she may.

• 1225

**Mrs. Letitia M. Edinborough:** I would just like to emphasize the committee's feelings in paragraph 7. We really do feel very strongly that

A thorough and widespread programme of family life education which would include family planning, under both public and private auspices, must accompany the change required in the Criminal Code noted in paragraph 6.

We feel that this would help a great deal in eliminating the number of abortions on demand.

**The Chairman:** Professor Watson, did you wish to comment?

**Prof. Watson:** Mr. Chairman, I noticed with some interest that some evidence presented to this Committee before indicated that in some states in the United States where abortion laws have been liberalized there has been an increase in the number of illegal abortions. I do not know whether that evidence is reliable but let us assume that it is. Now the interesting question is why this is so. In searching for the reason we come to

the really important consideration which I was about to mention when Mr. Gwynne-Timothy did it for me. It is quite possible that any liberalizing of the law which is not accompanied by the most careful education will lead and encourage many girls and men to think that we can now liberalize our behaviour because it will be much easier to get away with it. So they liberalize their behaviour and pregnancy ensues and then they come before a very careful and cautious hospital board and discover that they cannot get the abortion they were so sure they could get because their health is not seriously threatened and so forth. Then of course illegal abortion is their alternative. I think this may account for this phenomenon, if this is what has indeed happened.

Now then this brings up the point of education, which not only makes absolutely clear what is meant by any laws that are liberalized and what legal abortions must involve but has to do with the general approach of society to the question of pregnancy, particularly premarital ones. I am sure the majority of us at one time or another have had to cope with an unmarried girl whose first thought after discovering she is pregnant is to have an abortion, and her second thought is to get married to the man, and against both of these strong tendencies she has to be argued into completing her pregnancy and then allowing society to care for the child or to take whatever proper steps are appropriate. But this all has to do with education and it simply underlines the fact that we as a committee never for a moment thought that what we proposed here stood on its own legs; it must be part of an over-all approach which changes attitudes and in fact instructs people as to what is and is not available, right, wrong, and so on.

**Mr. Rock:** You have recommended that patients go before a board in a hospital rather than to their own doctor and then another. Do you not feel that the patient's own doctor would know more about the case than two strangers who would just listen to a report of some kind from the patient's doctor and then make a decision not knowing fully the patient's past history and so on. Do you not feel it would be better for the person's own doctor to consult another doctor and then agree between them that it must be done rather than have a special board in a hospital? The reason for my question is that I

believe women possibly would be more reluctant to appear in front of a board whereas they would not have the same reluctance to go to their own doctor.

**Rev. Canon Maurice P. Wilkinson:** The manner in which a board operates is quite different from what you suggest.

**Dr. Cairns:** Mr. Rock, I think it is unfortunate that the proceedings of most therapeutic abortion boards are not more readily available to a committee such as this. I am sure it would be helpful if you were able to watch a committee of an Ottawa hospital actually in action. I do accept what you said initially about the family doctor knowing the problems possibly better than anyone else. However, he is asked to send a typescript of the patient's problems to the therapeutic abortion committee of the hospital. The therapeutic abortion committee itself is set up with the Chief of Medicine and the Chief of Obstetrics, and generally two obstetricians and two physicians and a psychiatrist, and those members of the hospital especially that they wish to co-opt for the purpose of the meeting.

• 1230

The patient is certainly not asked to be present before the board. The letters are read by the chairman of the board, and, generally speaking, it is not just the letter from the family general practitioner but the specialist to whom the patient has been referred, say to Dr. Christie, as the psychiatrist attached to the hospital. He will be there as a member of the therapeutic abortion committee and will read his account of his meeting with the patient, and he will have one other psychiatric opinion as well.

I can honestly say that the patient's clinical status is well represented. The feeling of the therapeutic abortion board generally is one of warm concern for this particular individual. The responsibility that Mr. MacDonald pointed out is well accepted, and these meetings are not conducted flippantly or lightly in any way at all. They are serious things, and we aim to do the best we can for this particular patient. That may not necessarily mean that we aim to do an abortion; we aim to do the best we can. We are human, we make errors, but our intentions are that their patient should be looked after in the best possible way that we see at that time.

**Mr. Rock:** One last question...

**Mr. Knowles:** Can you tell us how many are passed and how many are rejected?

**Dr. Cairns:** I should really have that figure. I do not have it, Mr. Knowles; I am sorry.

**Mr. Rock:** I think Dr. Sidgwick wants to say something.

**Dr. Sidgwick:** I would like to make two points. I think I am the only family doctor present on this delegation. I would like to reinforce what Dr. Cairns has said, that every general practitioner is on a hospital staff and usually has a fairly close relationship with the members of the staff. I am not on a therapeutic abortion committee myself, but I would have plenty of opportunity to present my view and the conditions of the patient before this committee, and they do certainly get very good consideration and I can reinforce their appeal in any way I wish.

The other thing that I wanted to say is that you asked Dr. Morley whether she was able to say what the feelings of the women of Canada were on this subject. I have not exclusively women patients, and on several occasions in my office I have asked every adult patient who came in in a session what they felt about the laws on abortion, and without exception, men and women, they all wished them to be liberalized. There was only one out of about 30 people who wanted to have abortion on demand, but everyone else would like to see some liberalization on the lines which we are now putting forward.

Also I would think that every woman in Canada who is not a Roman Catholic would like to see you make some alteration in the legislation about contraception, and I will say here that I am breaking the law every day of the week by giving help to women who come and ask me for advice on this subject.

**Mr. Cowan:** Mr. Chairman, did this witness state that every general practitioner is on a hospital staff?

**Dr. Sidgwick:** Almost every general practitioner has the opportunity to be on a hospital staff, yes.

**Mr. Cowan:** I thought you said every general practitioner is on a hospital staff.

**Dr. Sidgwick:** Well, I could not say.

**Mr. Cowan:** Well I know that is not correct; that is why I asked you the question.

**Dr. Sidgwick:** To make such a sweeping statement, no, but nearly every one.

**Rt. Rev. Ernest S. Reed:** Mr. Chairman, in that connection if I might just say so the committee discussed at some length Canada in all its facets. There are many places in Canada where people are denied the same kind of medical treatment that exists in centres such as we are now in. This, I think, is something that your own Committee is aware of. And perhaps in connection with this kind of legislation you would want to see that people in Canada, wherever they may be, do have access to the kind of medical treatment that we are suggesting.

**Mr. Rock:** One last question. How long would your hearing take? In other words, from the time the woman knows that she is pregnant to the time she would want to be aborted? How long would it take from the time that her doctor appeals to the board, and the board arrives at a decision?

**Dr. Cairns:** You are quite right to ask that question, Mr. Rock, because time is of the essence as you realize. It makes a great deal of difference from the technical aspect as to how the abortion may be performed. And if indeed the Secretary of the Therapeutic Abortion Committee in our hospital were to hear of a case on Tuesday, he would have that Therapeutic Abortion Committee called for Thursday and the documents presented.

#### • 1235

The only problems that are likely to arise in delay are those where a rather detailed type of speciality investigation is involved. The simplest cases I could mention would be those in which there were involvement with rubella virus in the first 80 days, say, of gestation, and in which there was no denial that rubella was the infecting agent. Certified testimony to this extent could easily be produced and the matter would be conducted very rapidly.

**Mr. Forrestall:** Mr. Chairman, can I first of all comment? It is the first time I have heard a good description for non-resident husbands, but I suppose most of us around the table are non-resident husbands. Well, I only see my wife and family periodically.

Mr. Rock got into the area of questioning that concerns me, and I think perhaps most of it has been dealt with. This, of course, is the problem of the number of illegal abor-

tions in Canada. I would like to ask the panel, Mr. Chairman, whether we could look a little deeper into this question for just a minute or two. I would like to start out by asking the panel generally if in their deliberations they arrived at any conclusions, or used any figure, that might have come out of study that would credibly represent the extent of this problem in Canada. That is to say, how many illegal abortions do you understand take place in Canada each year?

**Rt. Rev. Ernest S. Reed:** Mr. Chairman, Dr. Schwenger who is a member of our Committee and whose field is public health said that there are no reliable statistics. So we did not mention any in our brief.

**Mr. Forrestall:** Then could I ask Your Grace whether you think the fact that there are no reliable statistics is regrettable?

**Rt. Rev. Ernest S. Reed:** Yes, we feel this is very regrettable and we would like to see proper statistics kept of all those abortions that come before hospitals, and also that some study should be made of the other. We feel it is regrettable that we cannot have any firm statistics. Obviously there are some reasons why statistics are hard to obtain, but we feel a greater effort should be made to have reliable statistics.

**Mr. Forrestall:** In the preparation of your brief you mentioned that it was certainly something that kept recurring. Could I ask you specifically whether you decided as a deliberate act that there was no useful recommendation you could make about how we might cure this? Was that a deliberate thing? Did you simply say that this is not a question on the basis of reliable evidence that we can usefully be specific about? Were you deliberate in that, or was it just that this is how it evolved and you, as Canon Wilkinson has mentioned, hoped that your brief did deal indirectly with it?

**Rev. Canon Maurice P. Wilkinson:** If I understand your question correctly you are summing it up pretty accurately. We attempted to come to grips with this in specific terms and found that we did not have the competence or data on which to do it and came, moreover, to the greater positive conviction that the major answers to this lay in the four areas that are mentioned in the brief, education, statistical recording, the competent operation and the review procedure suggested.

**Mr. Forrestall:** Your Grace, could I ask how urgent it is that the government of Canada move to—I will use the term, “clarify,” the existing law?

• 1240

**Rt. Rev. Ernest S. Reed:** Mr. Chairman, I think we have stated in our brief, and certainly we would like to repeat it, that we think it is very urgent, because although we do not have reliable statistics our parish priests and the social workers with whom we are in touch are aware of the tragedies that result from illegal abortions, and also those that result from a lack of facilities to help people in trouble. We feel that the whole process to which Professor Watson and Mrs. Edinborough and others of our committee have referred, for family-life education and for the supporting services that need to be given to people can be helped if we get the law clarified, and, along with that, a process of education.

**Mr. Forrestall:** I have one final question. Before I put it, may I join with Mr. Enns and others in commending those who have been responsible for the preparation of this brief. It is the best we have received to date. I thought the lawyers and doctors of Canada in their briefs overlooked their social responsibilities completely and did an abysmal job. I am not happy with them at all. Yours is entirely different.

Are you of the opinion that the general level of the evidence that we have had before us is such that we can base any meaningful conclusion on it—a conclusion which, for example, might put Canada in the position of taking some kind of responsible lead in terms of attitude to this type of question?

**The Chairman:** I am not sure that that is a fair question. Perhaps the witnesses have not seen all the evidence. Certainly all of it has not been printed. I think this is something for the Committee to decide rather than for the witnesses to comment on.

**Mr. Forrestall:** All right; I will withdraw it.

**Dr. Christie:** On this matter of statistics, Mr. Chairman, I know the Committee has had presented a number of “guesstimates” and estimates about the dimensions of the problem in Canada and elsewhere in the world. As you will all remember, these ranged over the tremendously wide order of magnitude of anything from 10,000 to 100,000

a year in Canada, as estimated by some groups. Even taking the lowest of these, however, and remembering the incidence of serious illness and complications arising from abortions even done with safeguards, let alone illegally under the conditions in which they are done, I think this in itself points to major urgency.

**Dr. Morley:** May I speak, Mr. Chairman? You were asking what could be done to try to tackle the problem of illegal abortion. Something that could be done is, as quickly as possible, to change the Criminal Code with regard to contraception. This is a step that is waiting to be taken, and has not yet.

**The Chairman:** It is already before the Senate. It is being done.

**Dr. Morley:** It is being done?

**The Chairman:** Yes.

**Dr. Morley:** Will it be done by the end of this session? Perhaps I am not allowed to ask questions.

**The Chairman:** I hope that it will be done by Christmas.

**Dr. Morley:** That would be a good Christmas present.

**Mr. Forrestall:** It will not get bogged down in the House.

**The Chairman:** Mr. Orange?

**Mr. Orange:** Mr. Chairman, continued reference has been made here today, and on other days, to abortion committees in hospitals. In major cities this is fine, because they have the resources available to them, such as psychiatrists, social workers, and so on. However, a great many people in Canada live in small communities where hospitals are non-existent, or where there may be one with 20, 30, or 40 beds and possibly one or two medical practitioners. I am just a little concerned about how practitioners in these particular hospitals, particularly if they have their own personal and private views on the subject, will be able to provide services or meet the conditions as set down by the Criminal Code or by the liberalized laws. This is one area in which I would like to get the views of possibly some of the medical people here today.

**Rev. Canon Maurice P. Wilkinson:** We are living in an electronic age of communications. Perhaps Dr. Cairns can take account of that in his answer to you.

• 1245

**Dr. Cairns:** I appreciate what you are saying, Mr. Orange. It is a very difficult question to answer. We, as a committee suggesting clarification of the law on abortion, certainly did not hope to solve either the problem of the illegal abortion racket or how medical care should be evenly distributed across Canada. I would, however, like you to bear in mind that if you are thinking in terms of therapeutic abortion done in the best circumstances, in terms of, say, Denmark and Sweden, their mortality figures are ten times that of the obstetrical mortality rate. That is, it is ten times more dangerous to have an abortion done under the very best of circumstances than it is to have a baby.

Furthermore, if you take the figures from the Toronto General Hospital, which represents a sort of acme of endeavour, in the 250 abortions that they did over a period of about 12 years they had a complication rate of 9 per cent, and of these, some were horrendous, involving problems with bowel obstruction, haemorrhage, and that kind of thing.

Therefore, if these abortions that are recommended by general practitioners and specialists in peripheral hospitals, or in outlying areas, are to be performed in those areas, these individuals are going to be faced with problems that they know naught of. I would think it is a sufficiently serious problem that people who are recommended for abortion in outlying areas should make the trip to a hospital that is set up with blood bank facilities and has reasonable physician and surgical staff.

Doing an abortion is not a simple affair. I find that a number of those people who would press the medical profession to do more abortions have literally no idea of the technical problem that arises. It is much more difficult than one would think.

**Mr. Orange:** Mr. Chairman, my second question, which is not related to the first at all, deals with the reference in the brief to the effect that there should be a fresh approach to the Christian tradition with regard to social change. With this I cannot disagree. However perhaps Bishop Reed might touch on something that we talked about a few minutes ago, which is the moral position of the Anglican Church of Canada with regard to when the foetus becomes a human being.

**Rt. Rev. Ernest S. Reed:** Mr. Chairman, I would ask Professor Feilding, our morals theologian here—I am only a Bishop!—to answer that question.

Speaking broadly, the Anglican Church has never declared itself on that question, because we do not know.

Professor Feilding can give us a more complete answer relative to some of the things that have been discussed on the Christian tradition about this.

**Rev. Dr. Feilding:** Mr. Chairman, we have been faced with this question in the commission from time to time. It has been forced upon the theologians by the doctors, and I think all I can do is point out some of the more or less obvious things that have to be said.

The first is that if you look at the historical answers which have been given to the question of when human life begins the answers have been given, as I said a little while ago, on the basis of evidence that we would not today consider adequate. The answers were drawn from contemporary culture and from metaphysical ideas. They were not drawn from any detailed knowledge about what was going on in the womb.

Today, there is very sophisticated discussion of this problem. It centres about the question of whether you are going to say that life—we will not use the adjective “human” for the moment—begins at conception, begins after conception when the fertilized ovum has been implanted in the womb, or at some later time.

• 1250

After you have got away from the difficult question about what human life is, and all that sort of thing, the first thing you are going to realize is that, no matter how you do it you are going to end up with an arbitrary decision. You are simply going to have to say that in this discussion, from our point of view, or in this legislation, or in this book on ethics, or whatever it is, we are going to say by definition that the life that we are talking about begins at...—and then you will have to choose quite arbitrarily one of these points. There is a new movement among some scholars which I notice has been very attractive to the medical members of our commission. There is a good deal of evidence, if you have to make this arbitrary decision, that it should be made at the point of implantation rather than at the point of con-

ception. I think if I tried to say any more, Mr. Chairman, it would only develop into a dull lecture. I just wanted to give you the flavour of the kind of questions you get into when you bring this matter up.

**Rt. Rev. Ernest S. Reed:** Dr. Cairns has also considered this question very carefully and I think at this time he could give another answer to this.

**Dr. Cairns:** I would merely like to say, Bishop Reed, that I endorse what Dr. Feilding has said. Whatever you say, it is an arbitrary decision. I feel that if one considers the fertilized ovum as it travels through the fallopian tube that this fertilized ovum, while it may be considered to be evidence of living protoplasm, it does not have quite the same meaning as a blastocyst that is implanted within the endometrium. At the point in time when the blastocyst starts to live within the endometrium there is a life developing within the womb. Then you have the seed, if you like to call it such, the fertilized ovum, travelling through the fallopian tube and at the time of implantation you have the seed within the substrata or within the earth, if you like to put it that way, now growing into something that is meaningful and understandable in biological terms. Prior to that time you have a seed, just as you might have a seed in a bag or a box of seeds, and it has potential life. However, once it is in the earth, and being nourished by the nutrients coming to it from the maternal side, you have growth into what we recognize initially as a foetus and later as a baby.

**Mr. Knowles:** What about the ovum before it is fertilized? Is it not living protoplasm?

**Dr. Cairns:** Until there is a combination of the male and the female gamete you are not likely to have a baby. You are quite correct when you say that the ovum is alive for a short period of time but it has, of course, as it is separated from the ovary, a very short life span, something on the order of 24 or 36 hours.

**Mr. Knowles:** It is just as much living protoplasm at that point as it is at any point until it becomes—

**Dr. Cairns:** Yes, but this is speaking in terms of reproduction in this sense.

**Rev. Dr. Feilding:** With respect, Mr. Chairman, may I point out that this few minutes of conversation gives you an example of how the Christian tradition has to be dynamic.

This discussion could not have been understood by Aristotle, St. Thomas Aquinas, Martin Luther or Calvin. We did not have this information. Therefore you must always reassess.

**Mrs. MacInnis (Vancouver-Kingsway):** Circumstances unfortunately prevented me from hearing the reading of the brief but I went over it carefully beforehand and I really feel that it is one of the most civilized approaches to this whole matter we have had. I also think that it has more flexibility and perhaps more concern for the individual than any brief we have received so far because it deals with each individual case as a separate one requiring separate treatment. There is an area that I do not think has been explored this morning and I would like to deal with it now. I know it is in your brief but I would like to have a little bit more discussion on it. It concerns the area of the prevention of birth of the deformed, defective and retarded children—I am talking about both physically and, perhaps even more important, the mentally under-developed—and I would like to discuss it a little bit both from the standpoint of the mother as well as the standpoint of the child concerned. I would like to discuss the individual angle. I would also like to have some information on whether you have considered the impact of this sort of thing on the community. This is a very broad subject and, as I say, I would like to hear some of your views on whether or not there should be some consideration given to this idea; whether from the standpoint of either the individuals concerned or the community it is a good idea to permit birth with any degree of retardation or malformation. I am referring to both physically and mentally, but particularly mentally.

• 1255

**Rev. Canon Maurice P. Wilkinson:** Mr. Chairman, Mrs. MacInnis is asking for elucidation of paragraphs 15 and 17 in particular. These matters were probed and discussed at considerable length. I think our two major spokesmen on these subjects will be Dr. Christie and Dr. Cairns again, although we all entered into this in considerable detail.

**Dr. Christie:** Mr. Chairman, I much appreciate Mrs. MacInnis picking up the concern of the committee for the individual because I think this was precisely the theme in all our minds. Certainly the possibility of retarded and deformed offspring was considered, as stated in paragraph 15 perhaps rath-

er too briefly, to be a possible indication. However, bearing in mind the concern for the individual and knowing the very wide range of severity of these abnormalities and the possibility in many cases of predicting such an abnormal foetus with any degree of confidence with present techniques, we felt we should not again make this a separate ground. But in this broad context when the health of the mother is affected by this possibility, or actuality, then it could be part of the grounds.

As far as mental retardation is concerned, I think it is important to realize what a tremendous contribution and potential the certainly mildly, and even the moderately retarded people in our society are turning out to possess. There is a wealth of work, recreation and other living experience which they are proving themselves able to engage in in the community, with great benefit to themselves, their families and the community at large. I would like to underline that in connection with mental retardation. Again, of course, you bring in the whole matter of family planning, the great importance of better education, contraceptive techniques and wider availability.

**Mrs. MacInnis (Vancouver-Kingsway):** Perhaps I could make my question even more pointed to Dr. Cairns. Where conditions are pretty well known, either mentally or physically, do you think is it a moral thing to knowingly bring severely deformed or retarded beings into the world?

**Dr. Cairns:** I do not know if that is a moral question.

**Mrs. MacInnis (Vancouver-Kingsway):** It is moral and medical as well.

**Dr. Cairns:** Even considering the question of eugenics Mrs. MacInnis, perhaps you think the medical profession are better equipped than they are. In assessing a foetus *in utero* you seem to assume that as an obstetrician I would know whether a foetus was likely to be mentally retarded or not.

**Mrs. MacInnis (Vancouver-Kingsway):** I am just asking for information, I am not assuming anything.

**Dr. Cairns:** It is very, very difficult. As you well know, cases of rubella or german measles in the early months of pregnancy are the best example of a situation where congenital abnormalities may be predicted with reasonable confidence. Of course, we recognize that even in the best circumstances

we kill four normal babies out of five that we terminate. The fifth one would be abnormal.

**Mr. Cowan:** You changed "kill" to "terminate" just then.

**Dr. Cairns:** You obviously "kill" the baby but you "terminate" the mother.

**Mr. Cowan:** That is what I say. Thank you.

• 1300

**The Chairman:** You terminate the pregnancy.

**Dr. Cairns:** Terminate the pregnancy, yes, not terminate the mother. But in this question of eugenics, there was an attitude that I took which I borrowed from Lord Brain which he expressed in an article in the *British Medical Journal*, and which is also voiced by a professor of obstetrics and gynaecology at the University of Toronto. In regard to the child, it is very hard to know what the actual feelings are of any particular child that is either mentally retarded or physically handicapped. To say to a child that has a congenital heart or is congenitally blind or congenitally blind and deaf: "Would you rather not have been born?" is not really a very useful question. This is all that that particular child knows, and as Doctor Christie says, many of these children make the best of it in a rather surprising way.

The thing that is really important—and it is a thing that you have raised—is the anguish that occurs in the family and in the mother who already has two or three children and is just getting by and then has to deal with a baby that is blind, blind and deaf or terribly handicapped due to a badly deformed heart or any of the other terrifying congenital complications that can occur. And you can go further than that; not only to the family but to the society in which that child is born. Can the society really bear the quite staggering cost of looking after the progressive number of children with cystic fibrosis and that kind of thing?

**Mrs. MacInnis (Vancouver-Kingsway):** That is what I am getting at.

**Dr. Cairns:** Bearing in mind first of all the fact that outside rubella we simply are not able to predict these with any degree of accuracy, I think we should, where there is reasonable chance, or reasonable hope, give a sympathetic ear in our therapeutic abortion committees where our geneticists or internists

or pediatricians say that the chances are highly likely in a particular case. But the reason that we are doing this is not because of the child; we are doing it in this case because of the anguish to that mother or that father. It is the family concept, I think, in this case, that is pre-eminent.

**Mrs. MacInnis (Vancouver-Kingsway):** Thank you.

**Rev. Canon Maurice P. Wilkinson:** This is why paragraph 15 is written as it is. It does not say "when they do indicate this;" it says "when diagnosis can indicate". The morning paper, the *Globe and Mail*, has an extremely interesting article on research in cretinism being done at Wellesley Hospital where obviously increased ability to forecast, to diagnose, is accompanying ability to treat. It seems to us that this is much the more responsible way of stating it. When it can be indicated, then it should be considered.

**Mrs. MacInnis (Vancouver-Kingsway):** Thank you.

**The Chairman:** Mr. Cowan?

**Mr. Cowan:** Mr. Chairman, I do not have any. I do not want to go into any questions, that would take altogether too long because ... One or two here. In paragraph 17 this submission says:

Each termination of pregnancy should be performed in an accredited hospital,

Now there are at least two doctors here—there may be more. Why do you say an accredited hospital? What about those large number of hospitals that are not accredited?

**Dr. Cairns:** I understand your remark, Mr. Cowan. This was introduced because we felt that because of the dangers that I had suggested which attended the abortions performed at a major teaching hospital, minimal standards of safety in regard to the provision of blood banks, operating rooms and a suitably qualified staff, would be the sort of things that we would ask for in the termination of a pregnancy. We felt that these cases deserved the best and we would rather move the patient to a hospital where these facilities were available rather than expose the patient to what we thought was an unwarranted risk.

**Mr. Cowan:** Well, the last time the Bishop was here, I think I asked him if he was aware of the fact that the Ottawa Civic Hospital for quite a while was not an accredited hospital. You mean that these abortions that

some people want could not have been performed at the Ottawa Civic Hospital for quite a while since it was not accredited? I understand it is a teaching hospital.

**Dr. Cairns:** Mr. Cowan, you have to accept certain arbitrary moves and it may well be that the Ottawa Civic Hospital was not accredited, but I am sure it is at the present time.

**Mr. Cowan:** I said "was", sir.

**Dr. Cairns:** Yes, but it is a question really of whether you have other suitable criteria that you could use that would ensure that the patients were going to be properly looked after.

• 1305

**Mr. Cowan:** Well, I am just interested in why your group would be carrying the torch for accredited hospitals only when I know there are a large number of hospitals that do not carry this so-called accreditation. I do not subscribe to the opinion that a hospital has to be accredited to be considered a worth-while institution. You as a doctor know as well as I, I am certain, or should I say that a layman might know as much as a professional man that there is a certain class of hospital that does not want accreditation and does not ask for it.

I can give you a large number of names later if you wish. I just wanted to know why the committee was limiting itself to accredited hospitals. Why not just say performed in a hospital? Are not all hospitals chartered by a provincial government? Is that not satisfactory, or is there something higher than a provincial government when it comes to giving the imprimatur to hospitals?

**Dr. Sidgwick:** I cannot really answer Mr. Cowan's last question, but I think we just want to safeguard the patient. We are certainly not wanting to give an advantage to one hospital over another. We are thinking primarily of the safety of the patient. I would also like to say that the phrase "a suitably qualified medical practitioner" does not mean a specialist in gynaecology. It can certainly mean a family doctor as it must be a family doctor who has experience with this matter which, as Dr. Cairns has said, is a very difficult and often dangerous operation. Now I would never consider performing a therapeutic abortion myself in the city of Toronto as there are many gynaecologists. But if I were in a remote place, I would take the little bit of extra training that would be

necessary and then I would be prepared to do it, and would be allowed to under that qualification.

**Mr. Cowan:** If you were in a remote place would it be an accredited hospital there?

**Dr. Sidgwick:** It depends on how remote. I would fly with my patient to the nearest accredited hospital; I certainly would not do an abortion in a hospital that does not have a blood bank. It would be very dangerous indeed.

**Mr. Cowan:** Are you intimating that unaccredited hospitals have not got blood banks?

**Dr. Sidgwick:** Oh no, of course not.

**Mr. Cowan:** That is the intimation you left.

**Dr. Sidgwick:** Well, you see, we really have no other way of distinguishing between hospitals. We know there are hospitals that would be so small that such an operation there would be dangerous. What other criterion would you give us?

**Mr. Cowan:** I would ask you to substitute there—and far be it from me as a Presbyterian to suggest any improvement to the Anglican Church—simply "a provincially chartered hospital"; a hospital chartered by a provincial department of health.

**Dr. Sidgwick:** Can you expand on this, Dr. Cairns, because I am afraid I am not sufficiently well up on these details.

**Mr. Gwynne-Timothy:** Mr. Chairman, I only want to make one comment and that is that we were not intending here to present wording for the legislation so much as to give concepts. The concepts are that the decision should rest with a committee on therapeutic abortion; we do not say how that committee should be constituted. We did use a technical term in using "accredited" but our concept was that this was something that should be done only under circumstances which doctors were fully satisfied would ensure the best care of the patient. In the same way in our use of the words "suitably qualified medical practitioner", we wanted to bring forward the concept that this was something that had to be done with the greatest amount of care for the patient.

**Mr. Cowan:** This paragraph 17 reads:

Each termination of pregnancy should be performed...

It does not say that you recommend that it be performed "in an accredited hospital";

you say "should". But the second sentence of that paragraph 17 interests me. "In this connection, the Criminal Code must also make provision to prevent abortion being performed by unqualified persons". We have had witnesses come here day after day telling us that the Criminal Code does not prevent criminal abortions at the present time. If we change the Criminal Code now we will then be able to prevent criminal abortions? A mere change in the Criminal Code will prevent abortions in the future such as these witnesses are telling us are performed day after day throughout Canada. I think up to 300,000 abortions are talked about. Well, if the Criminal Code now cannot prevent criminal abortions will a change in the Criminal Code prevent them in the future? You say in this connection that "the Criminal Code must also make provision to prevent abortion". Will a change in the law prevent abortions?

• 1310

**Rt. Rev. Ernest S. Reed:** There are certain new laws now dealing with who is qualified to practice medicine and I am sure the legislature is giving attention to this very question as it relates to abortion. There always must be certain standards laid down as to who can qualify to practice medicine.

**Mr. Cowan:** There is no question about that and I have not questioned it for one moment. As a Presbyterian, I have read your brief thoroughly and am quite interested in the number of references the Anglicans make here to the word "tradition." I underlined the number of times and note, particularly on page two, that "tradition" is mentioned six times. On page three it is mentioned again. I wanted to ask the Bishop of the Anglican Church if his church relies this much on tradition. I had not realized that your preachings were based so much on tradition. I thought they were based on the word of God. How much do you rely on tradition?

**Rt. Rev. Ernest S. Reed:** Mr. Chairman, I will be glad to do my best to answer this question but it will take a considerable length of time. I also would like Professor Feilding, who has given a great deal of attention to the whole question of biblical tradition, to comment. We include the bible in our tradition.

**Mr. Cowan:** "Biblical tradition" is quite a phrase. Biblical teaching?

**Rt. Rev. Ernest S. Reed:** I think the technical meaning of the word "tradition" is that which is handed on.

**Mr. Cowan:** It does not say what it is based on.

**Rt. Rev. Ernest S. Reed:** I am sorry, Mr. Chairman, but if the question were more pointed perhaps I could give a better answer.

**The Chairman:** Would you like to comment on this, Dr. Feilding?

**Mr. Knowles:** Is this not going beyond our terms of reference?

**Mr. Cowan:** I am referring to the brief in front of us.

**Rt. Rev. Ernest S. Reed:** We are glad to answer the question but I was just wondering whether I was answering the one Mr. Cowan was raising.

**Mr. Cowan:** I asked you as pointedly as I could how much of the preaching of the church is based on tradition?

**Rt. Rev. Ernest S. Reed:** The teaching of church is based on tradition, yes, and included...

**Mr. Cowan:** How much of it is?

**Rt. Rev. Ernest S. Reed:** ... in "tradition" is the Bible consisting of some 80 books: 39 in the Old Testament, 27 in the new and 14 in the Apocrypha. The Apocrypha is not used in the Anglican Church as a basis for the beliefs which ought to be believed by the faithful who belong to the church but it is based upon the tradition as contained in the canonical books of the Old and New Testaments; and then as we go through, seeking to understand what these mean in terms of moral and spiritual living, we also regard the comments that have been made by biblical scholars and moral theologians, and specifically by pronouncements which the whole church at some time or other has given. Now there are several professors of theology here, Professor Stackhouse and others, and perhaps they would like to elaborate on this. This is the way in which we in the Anglican Church understand tradition.

**Rev. Dr. Feilding:** Mr. Chairman, the adjective which modifies "Christian tradition" at the beginning of the paragraph is "long-standing". The tradition which is being spoken of here is not, may I say with respect, the tradition to which Mr. Cowan is referring, which is tradition in a rather technical and different sense—something set up against the bible. The word "tradition" is used here to include the teachings of the Christian community at all ages in its history. What John

Knox taught is part of the Christian tradition, what Martin Luther taught is part of the Christian tradition, and what the churches of Christendom have taught in every age is part of that tradition.

**Mr. Knowles:** What Dr. Feilding says today becomes part of it.

**Rev. Dr. Feilding:** I hope it may be. We are talking about tradition in the sense of a living thing which is constantly being reinterpreted.

• 1315

**Mr. Cowan:** I have not that much faith, Stanley.

**Rev. Dr. Feilding:** Mr. Chairman, I merely want to say, with respect, that I find Mr. Cowan's question unanswerable because I think he is using a tradition in a totally different sense to that in which it is used in this paragraph.

**Mr. Cowan:** Sir, you emphasized on page two that the adjective is "long-standing". Could any tradition be a tradition except it were long standing? Is that not a redundant phrase?

**Rev. Dr. Feilding:** I think in terms of the rest of the paragraph it should be quite clear that we speak about its basic affirmations, its ephemeral parts, and that we are talking about something which is constantly changing. John Knox and John Calvin did not entirely agree and they did not agree with Martin Luther and so on, and they were all talking about the same thing.

**Mr. Cowan:** In paragraph six you state:

We believe that the prevention of unwanted pregnancies by contraceptive means is to be preferred to other alternatives.

Are you ruling out continence by that statement as well as other alternatives?

**Dr. Christie:** Continence is a means of contraception, Mr. Cowan.

**Mr. Cowan:** You say, "...by contraceptive is to be preferred to other alternatives."

**Rt. Rev. Ernest S. Reed:** We would include continence because it is a very important part of contraception.

**Mr. Cowan:** Well I am awfully glad that you include it, sir.

**Rt. Rev. Ernest S. Reed:** We took it for granted that this would be understood by the Committee.

**Dr. Sidgwick:** May I just say I think for the unmarried that continence is the very best contraception.

**Mr. Cowan:** I might state that I admire the Anglican church for that part of paragraph 10 which states:

We assert the general inviolability of the foetus and defend as a first principle, its right to live and develop.

That ranks with one of the paragraphs in the submission of the Presbyterian Church. I am from Toronto. If I am not mistaken, Canon Wilkinson is quite close to me, and the name "Morley" from St. Paul's Runnymede rings a bell.

The gentleman at the far end of the table was telling us how we are all so much smarter than Aristotle and that the rest of the boys would not have understood us. I am wondering if it is all right to refer to the first verse of the eighth chapter of First Corinthians where it points out that "knowledge puffeth up." I would like to emphasize to those members of the Committee from Montreal, Halifax, Winnipeg and Vancouver that you have a delegation here today largely composed of representatives of the Anglican Church from my hometown. As you listened to them you will know that our reputation as "Toronto the Good" is well based.

**The Chairman:** Is it agreed to print today's brief as part of today's proceedings?

**Some hon. Members:** Agreed.

**Mr. Isabelle:** Some statistics were mentioned. I do not know whether or not the *Toronto Star* is a good paper but I read an article in it, on September 1, 1966, that there were as many as 50,000 abortions of this kind—and they were referring to the irresponsible backroom quacks.

I have a question for the Bishop of Ottawa. Do you think the Anglican Church of Canada would be satisfied if this new legislation contained something similar to that contained in the first two lines of paragraph 13 of your brief?

• 1320

**Rt. Rev. Ernest S. Reed:** Yes, Mr. Chairman. I think that is what we conceive to be the heart of what the legislation should contain.

We would also agree that there are certain other things in here we would like to see as well, but that is the kernel of it.

**Mr. Isabelle:** But I think if we go beyond these two lines we will fall into what we call this kind of provincial jurisdiction.

**Rt. Rev. Ernest S. Reed:** Oh yes, yes; I would agree, Mr. Chairman.

**Mr. Knowles:** Mr. Chairman, this is a question of privilege. I believe when we were asked about speeding up legislation concerning birth control I made the remark that if the Senate would just hurry up with it we would get along with it. I have been scratching my head since and I think I owe an apology to the Senate. I think they have passed that bill and sent it to our House. The difficulty is that it has a title. It does not tell you that it includes birth control. It has a long title about...

**The Chairman:** Dealing with hazardous substances.

**Mr. Knowles:** Yes, hazardous substances.

**The Chairman:** Which one of the clauses deals with contraceptives?

**Mr. Knowles:** Does your opinion not confirm mine that the bill has been passed by the Senate and sent to our House?

**The Chairman:** I think that is so and the House has not taken action on it.

**Mr. Knowles:** As one of the House leaders I will take it up with the other House leaders and see if we cannot get it through at this session before Christmas.

**Mr. Stanbury:** I threaten to come back to my questioning after five minutes of questioning and I notice...

**The Chairman:** Ten, Mr. Stanbury.

**Mr. Stanbury:** Well, five minutes of answers. I have many more questions. My desire to know conflicts with my desire to eat and to let you people eat. I notice people folding up their papers and I really do not think I would be doing my duty if I did not find out a little more about the witnesses' thinking. Everyone else can go if they like but it seems to me that the reason we are here is to get our questions answered.

I think it is a very constructive brief. I like the idea of using health as the basis, not the guessed-at eventual condition of the child, or the reason for the pregnancy or something which cannot be determined by doctors. I still do not think you have expanded sufficiently on your idea of how this would be applied particularly in the field of unmarried mothers which Mr. Rock mentioned.

In the case of married women the witnesses mentioned frequently the social aspects of the considerations—the anguish; that was a word used several times—and yet when you talked of unmarried mothers I think you generally referred to very severe criteria such as suicidal tendencies, records of psychiatric difficulty, and so on. I got the impression that you would attach much less severe criteria to an application by a married woman than you would to an unmarried woman. If I am wrong I would like to have your thinking clarified on that.

If the anguish of a mother who would have a handicapped child would be a sufficient criterion for the approval of a therapeutic abortion committee, would there not be some comparable criterion in the case of an unmarried woman? In most cases would there not be equal anguish through bearing the child at all? I grant that perhaps some unmarried women welcome a child and are happy with it, but would it not be very likely that in most cases there would be anguish equal to the anguish suffered by a mother of a handicapped child?

**Dr. Cairns:** I would just like to say this much about the unmarried mother and I have had a fair experience with them: They account for about six percent of our obstetrical population in Toronto. One should be a little careful in assessing unmarried mothers at any one stage of their gestation. That is, you may see them at an early stage of gestation and be very much impressed by the immediate remorse that comes with their awakening to the fact that they are pregnant. We discussed this in committee and both Dr. Christie and I were agreed that more than often there is a change in the emotional climate as the pregnancy proceeds.

#### • 1325

I would not wish you to think that we are saying this to persuade you of something that is not true. It is a commonly observed fact that as the pregnancy proceeds and as we see people through pregnancy, this is not a particularly despondent group. It is a very surprising thing but most of these women, as we see them week by week, pass through their pregnancies without any really serious emotional depression.

The most serious thing that happens to an unmarried girl who is pregnant is not the fact that she is pregnant nor, indeed, that she goes through the pangs of childbirth, but that she is separated from her child after the baby is born. I am not trying to support a

situation where she would retain it, but the separation of a mother from her baby actually is a much more serious emotional problem for her than the fact that she is pregnant and unmarried.

So far as your remarks with regard to the single woman are concerned I would not like you to think we would treat these in any different way, but to return once again to paragraph 10 which states:

We lay the burden of proof to the contrary...

that is, in regard to the termination of pregnancy,

...on those who, in particular cases, wish to extinguish that right.

that is, the right of a foetus to live,

...on the ground that it is in conflict with another right having a greater claim to recognition.

Where this greater claim to recognition is recognized by particular people like Dr. Christie we would, in the therapeutic abortion committee, listen attentively to what they have to say.

**Mr. Stanbury:** You would not apply a double standard of justification? In answering some of the questions it seemed that you would.

**Dr. Cairns:** I understand. We talked in terms of ...

**Mr. Stanbury:** You would not apply a double standard to an unmarried and a married woman in terms of anguish or social effect?

**Dr. Christie:** Mr. Stanbury, it was not my intention to do so. I simply was giving an example and I chose a severe one.

**Mr. Stanbury:** I wanted to clarify that point.

**Dr. Christie:** There certainly would not be any distinction on psychiatric grounds.

**Dr. Cairns:** I think in this group of 250 cases I mentioned earlier that was reported from the Toronto General Hospital, 30 of the 240 cases were actually single women.

**Mr. Stanbury:** I think we were told when the Medical Association representatives were here that actually now, regardless of the law, therapeutic abortion committees in some cases do feel obliged to approve abortions on little more ground than the fact that the pregnant woman is single, pregnant and very

emotionally disturbed. There are some cases, I think, where that has been done regardless of the present law. You are suggesting that this could still happen under the law which you propose.

**Dr. Cairns:** Do I assume correctly, Mr. Stanbury, that you stated certain therapeutic abortion committees have approved recommendation for the termination of pregnancy on the basis that the woman was single and was emotionally upset and this was the sole indication?

**Mr. Stanbury:** At least one case was cited where a single, pregnant woman had her abortion application approved on health grounds; she was so emotionally upset that this was a justification. I do not argue with that; I simply say apparently it is done occasionally now and you are not suggesting that would be inappropriate under the law you are proposing.

**Dr. Cairns:** I think I made it clear in paragraph 10 of our brief that it was only when a greater right was recognized would we consider termination and that the therapeutic abortion committee would give due weight to hearing that application.

**Dr. Christie:** Yes, including the mother's right not to have her emotional health, which is one very important segment of health, seriously impaired.

• 1330

**Mr. Stanbury:** Looking at the British Act, which you have before you, Dr. Cairns, would you subscribe to the inclusion in the law of a test such as the one read out previously, that the threat to the health or life of the mother by the continuance of the pregnancy must be greater than the threat to her health or life by its termination? Is that test not stricter than what you put forward here today?

**Dr. Cairns:** I will read this section so that Dr. Christie can hear it clearly. It states:

that the continuance of the pregnancy would involve risk to the life of the pregnant woman, or of injury to the physical or mental health of the pregnant woman or any existing children of her family, greater than if the pregnancy were terminated;

**Dr. Christie:** I do not see the need for that sort of test myself.

**Mr. Stanbury:** Is that too strict a test? I gathered from what you had said in answer to questions that that was really a stricter test that you are applying.

**Dr. Christie:** Dr. Cairns has already pointed out, and every abortion committee would take into account, the risk of the abortion. This, as he stressed, is very considerable. It is not by any means a minor operation. This would be taken into account and I do not think need be spelled out. Do you agree?

**Dr. Cairns:** Yes.

**Mr. Stanbury:** Thank you. Have you any recommendation to make to the Committee about sterilization? Someone said during the questioning that sterilization should be legalized. I was not aware that it was illegal. I do not think there is any provision in the Criminal Code against it. Have you any suggestion to make to the Federal Parliament about legislation in this field?

**Mr. Gwynne-Timothy:** I can only comment, Mr. Chairman, that we do not have a recommendation as a group. There may be individuals who have, but it was not considered.

**Mr. Stanbury:** It is raised at almost every hearing on this subject. It is so closely entwined that I am interested to know whether perhaps we should have some further investigation of it.

**Right Rev. Ernest S. Reed:** That is what our brief does, in fact, say...

**Mr. Stanbury:** Yes; but what can you tell us about it? I think it was Dr. Sidgwick who suggested that sterilization should be legalized. Is there any step that you think we should be taking in this?

**Dr. Sidgwick:** Sterilization is a method of preventing conception, and I think it is illegal under that heading. Certainly whether sterilization of a female is to be carried out must also be considered by a hospital committee, must it not, Dr. Cairns?

**Dr. Christie:** It is a curious thing...

**Dr. Sidgwick:** I have been unable to obtain sterilization for patients.

**Dr. Cairns:** ...but it comes under the heading of the tissue committee who watch for the portions of the Fallopian tube that come their way and then comment adversely to the surgeon concerned if the conditions, or the indications, on which he performed the operation do not seem to them to be proper. Therefore, no surgeon would undertake to

perform this operation, as far as this tissue committee was concerned, unless it was well vetted by people like yourself and other...

**Mr. Stanbury:** My impression is that it is a medical inhibition, not a legal one.

**Dr. Cairns:** If I may say so, Mr. Stanbury, you are quite correct. There is nothing in the standard Criminal Code about it, but there is a sort of threat to us under an obscure reference to offences against the person and reputation, and when this subject is raised that is where we are told we might be in trouble. In actual fact, it has never been tested in a Canadian court.

**Mr. Stanbury:** I will not pursue it, because it is not within our terms of reference. You had suggested some move in this field, and I wondered if you could indicate what you thought we should do.

**Dr. Sidgwick:** Perhaps I could just mention that male sterilization is an intermediate area in which nobody knows what the law is. I discussed this just the other day with a surgeon who had a patient who wished to have this operation performed. The surgeon was hesitant to do it. He did not know what his legal position was and he could not find out. He was perfectly competent to do this operation; he does it many times for medical indications such as those accompanying a prostatectomy; but he would not do it just as a means of controlling conception, because he was afraid that he was breaking the law. Therefore, it needs to be spelled out.

• 1335

**Mr. Stanbury:** If you find out what law he would be breaking, would you let me know? I think it was the doctor's own law of self-preservation that he thought he might be breaking.

**The Chairman:** We know that in Toronto these are done quite openly and publicly; and it has never been challenged in a court of law.

**Mr. Stanbury:** I think it is quite obvious that your Committee rejects the principle that has been put before us several times that only women can, or should, be concerned with this subject. However, do the women on your committee share that view?

**Dr. Morley:** On sterilization?

**Mr. Stanbury:** No; on the subject of abortion. We have had women come before this Committee and say that we had no business even discussing it. Sometimes I think they would rather that we would not reform the

law because that would be an intrusion in their jurisdiction. I gather that the women on your committee feel that the whole of society has an interest in this subject?

**Dr. Sidgwick:** Half the parents are men, and half the babies are men.

**Dr. Morley:** Yes; it takes two to make a pregnancy.

**Mr. Stanbury:** Sometimes we wonder whether that is appreciated.

Another principle which is very often put forward is that what happens to a woman's body, including the bearing of a child, or the termination of a pregnancy, is strictly the business of that woman and of no one else. I gather that you, as a Committee or as individuals, do not subscribe to that theory?

**Mrs. Edinborough:** Not if she has a husband, I think.

**Mr. Stanbury:** What if she does not have a husband? Is the implication of Mrs. Edinborough's answer that only if she has a husband...

**Mrs. Edinborough:** No; I did not mean it that way at all. Whether unmarried or married the other partner in the pregnancy—I was going to say crime—is just as important as the female. I really believe that.

**Mr. Stanbury:** Do you suggest that there should not be abortion on request even by the two partners to the "crime".

**Mrs. Edinborough:** Definitely, yes.

**Mr. Stanbury:** Therefore, I presume that you feel that society has an interest in pregnancy.

**Mrs. Edinborough:** Yes; very much so.

**Rev. Canon Maurice P. Wilkinson:** Possibly this principle has been enunciated in paragraph 10, about the inviolability of the foetus and its right to live and develop. This is something which has...

**Mr. Stanbury:** It is in direct conflict with the theory that what happens within a woman's body is strictly her business. Is that right?

**Rev. Canon Maurice P. Wilkinson:** Yes; we recognize this.

**Mr. Stanbury:** Thank you very much. It has been most interesting.

**Mr. Rock:** There is one point that interests me. You gave the figures on therapeutic abortions which were allowed in hospitals...

**The Chairman:** That has become part of our record.

**Mr. Rock:** Yes. You mentioned that there were 240, and that of those 30 involved single girls. This gives the impression that there are very few single girls asking for such an operation. However, if one takes into consideration the years a girl remains single, the potential years before menopause and the number of married women, I would say that that is a great number. In fact, comparing the total married life of married women with the amount of time they remain single, I think the proportion is actually greater than that of married women demanding it.

**Dr. Cairns:** Yes; actually, I think I used the figures 30 out of 250, which was approximately 12 per cent and I think I mentioned the figure.

**Mr. Cowan:** Was it 250 or 240, because when you said 240 I mentally divided the 30 into 240 and it goes absolutely, three into 24.

#### • 1340

**Dr. Cairns:** Yes, but in actual fact the figure I mentioned of single pregnancies in the Province of Ontario runs about six to ten per cent, so in actual fact this would be twice the over-all average of single pregnancies. The actual figures, Mr. Cowan, quoted here are a total of 262 therapeutic abortions performed between the years 1954 to 1965 of which it was stated that 30 of the patients were single—approximately 12 per cent—228 were married and 4 were either divorced, separated or widowed.

**The Chairman:** If there are no other questions I would like sincerely to thank the delegates from the Anglican Church of Canada for coming before the Committee and discussing this in such a frank and forthright manner. We will adjourn until Tuesday. The meeting will be in camera.

## APPENDIX "BB"

## BRIEF

on

## ABORTION

from

The Anglican Church of Canada

to

The Standing Committee on

Health and Welfare

House of Commons

Presented Thursday, December 14, 1967.

1. On behalf of the Anglican Church of Canada, we appreciate the opportunity of presenting a brief on the subject of Abortion to the House of Commons Standing Committee on Health and Welfare. It has been prepared in accordance with the terms of the following resolution adopted by the General Synod of the Anglican Church of Canada at its meeting in August 1967:

"WHEREAS there are legislative changes contemplated in Canada in relation to abortion,

WHEREAS there is a need for a comprehensive study into matters relating to abortion, and,

WHEREAS there has been no definitive statement made by the Anglican Church of Canada regarding abortion—

This General Synod

1. REQUESTS the Primate to set up a special study committee of theologians, parish clergy, obstetricians, doctors engaged in family practice, lawyers and specialists in behavioural and medical sciences to prepare a statement on all aspects relating to abortion, and further

2. AUTHORIZES the said committee to submit a brief in the name of the Anglican Church of Canada when opportunity is provided to do so by the Government of Canada.

2. The Primate appointed the following persons to the Committee:

Harold F. G. Appleyard, Suffragan Bishop of Huron, Kitchener.

Arthur D. Brown, Parish Priest.

Douglas Broadwell, General Medical Practitioner, Windsor.

Edgar S. Bull, Parish Priest.

J. David Cairns, Obstetrician and Gynaecologist, Clinical Research Fellow, University of Toronto.

Paul Christie, Psychiatrist, Superintendent, Ontario Hospital, Toronto.

Letitia M. Edinborough, Housewife, mother and nurse.

Charles R. Feilding, Priest, Professor of Moral Theology, Trinity College, Toronto.

Betty C. Graham, Social Worker, Director of Child Welfare, Ontario Department of Social and Family Services.

K. Gordon R. Gwynne-Timothy, Queen's Counsel.

Henry R. Hunt, Suffragan Bishop of Toronto.

James F. Kennedy, Barrister and Solicitor.

Stanley R. Lang, Medical Officer, Research and Planning Branch, Ontario Department of Health.

Robert D. MacRae, Priest and Social Worker; Assistant Secretary, Council for Social Service, Anglican Church of Canada.

Helen M. C. Morley, Housewife, Mother, Medical Officer, Child Health Services, Borough of East York.

Edna L. Moore, Public Health Nurse, Former Director, Division Public Health Nursing, Ontario Department of Health.

L. Grace Nicholls, Vice-President and Managing Director, Toronto Mutual Life Insurance Company.

Ernest S. Reed, Bishop of Ottawa.

Cope W. Schwenger, Associate Professor, School of Hygiene, University of Toronto.

Mary Sidgwick, Housewife and mother, General Medical Practitioner.

Reginald F. Stackhouse, Priest, Professor of Religion and Ethics, Wycliffe College, Toronto.

C. Peter Vernon, Obstetrician and Gynaecologist, Faculty of Medicine, University of Toronto.

Gordon A. B. Watson, Professor, Philosophy of Religion, Trinity College, Toronto.

Maurice P. Wilkinson, Priest, General Secretary, Council for Social Service, Anglican Church of Canada.

3. The Committee has been aware of its responsibility both to uphold and to interpret the long-standing Christian tradition in opposition to abortion. At the same time we have been aware of the current re-examination of this tradition in the course of which many Christians have been concerned to distinguish its basic affirmation from the more ephemeral elements of its expression—elements derived from the knowledge and insights available to the tradition at particular periods in history and now sometimes superseded by newer knowledge or fresh insight. At least four factors which have contributed to this re-assessment should be identified: (a) the impact of medical science and technology upon population growth has created problems with which earlier moralists were unfamiliar; (b) an increase in biological knowledge has greatly expanded the area of judgment in which diagnosis and treatment can now be undertaken both before and during pregnancy, thus altering some of the limits under which earlier moralists were obliged to work; (c) a general increase in knowledge, together with an increase in the historical knowledge of the Christian tradition itself, has given rise to new insights into this tradition; and (d) the recognition in western culture of the place of women, especially in the fields of theology, ethics and medicine relevant to this Brief, has also given rise to new insights and fresh appraisals in the field of investigation under review.

For the above reasons, among others, we believe that we are justified in making a fresh approach to the Christian tradition and in making proposals based upon this approach.

4. We recommend the British Study, "Abortion, An Ethical Discussion", prepared in 1965 for the Church of England, which deals with the morality of abortion. "It is intended to help Christians and others to think rightly about an extremely difficult subject (p. 3)."

5. We are agreed that the sections of the Criminal Code of Canada which relate to abortion are in need of change.

6. Amendment to the Criminal Code with respect to abortion should not be considered without giving prior consideration to the need for amendment with respect to contraception. A large measure of agreement has already been achieved about contraception, and Anglican representatives have stated before this Committee that there is an urgent need for major amendment to those parts of the Criminal Code which pertain to the dispensing of means and information about methods of family planning. We believe that the prevention of unwanted pregnancies by contraceptive means is to be preferred to other alternatives. Legislation to effect this should be given priority over amendments to the sections of the Criminal Code dealing with abortion.

7. A thorough and widespread programme of family life education which would include family planning, under both public and private auspices, must accompany the change required in the Criminal Code noted in paragraph 6.

8. Contraception and sterilization are both integral parts of the whole subject under discussion. We believe that further consideration of the related question of the sterilization of either men or women is necessary.

9. Abortion should not be used to solve those social problems which should be dealt with by social and economic measures. For example, overcrowded and insanitary housing and the malnutrition experienced by underprivileged families do not of themselves justify termination of pregnancy. However, when such circumstances contribute to impairment of a mother's health, seriously reducing her ability to care for her family, termination of pregnancy may be a justifiable consideration.

10. The cardinal purpose of the criminal law dealing with abortion is to prohibit the unwarranted termination of foetal life; however, termination of pregnancy has been justified in the Christian tradition in cases of indirect abortion. At present there is a disposition among many Christians to expand the concept of this form of therapeutic abortion. We assert the general inviolability of the foetus and defend, as a first principle, its right to live and develop. We lay the burden of proof to the contrary on those who, in particular cases, wish to extinguish that right on the ground that it is in conflict with another right having a greater claim to recognition.

11. "Abortion on demand" and the absolute prohibition of all abortion both seem to us indefensible positions. The first position ignores the rights of the unborn child and may also ignore those of the father, and moreover disregards the professional obligations and possible conscientious objections of the medical personnel involved. The absolutist position is strained to absurdity when it can in certain circumstances condemn both the mother and the unborn child to death. We recognize that there are cases in which, granted the right of the foetus to live and develop, this right may be superseded by another right with greater claim to recognition.

12. In every proposed abortion due consideration must be given to the sacredness of human life, the life of the unborn child and the life of the expectant mother.

13. We believe that it should be legally permissible to terminate pregnancy when either the life or health of the expectant mother is seriously threatened, provided that such termination is carried out under the conditions outlined in paragraph 17 below. Health in this context is to be understood in its broadest sense. Termination of pregnancy on grounds of health must be based on an understanding of the relationship of the expectant mother to her total environment and her ability to cope with the problems within it.

14. We would emphasize that in cases of alleged rape or incest it is the effect upon the

woman's total health rather than the circumstances of the conception which might provide a valid ground for termination of pregnancy.

15. When diagnosis can indicate that there is substantial risk of foetal abnormality, a request for therapeutic abortion should be considered by a therapeutic abortion committee as described in paragraph 17 below. Abortion in such cases would be directed towards the prevention of breakdown of the mother's health.

16. In view of the principles set forth in paragraphs 13, 14 and 15, we recommend that the only grounds justifying abortion to which the Criminal Code should refer should be serious threat to the life or health of the expectant mother. Specific indications can better be left to the scientific and moral judgment of the doctors responsible for the decision and for the operation, in consultation with the patient and, where relevant, with her husband or responsible guardian.

17. Each termination of pregnancy should be performed in an accredited hospital, the request passed by the hospital's Committee on Therapeutic Abortion, and the operation performed by a suitably qualified medical practitioner. In this connection the Criminal Code must also make provision to prevent abortion being performed by unqualified persons.

18. Provision should be made for the recording of termination of pregnancy and such other information relating to the termination as may be useful in compiling statistics and recording Canadian practice.

19. No doctor, nurse, hospital employee nor any other person should be required to participate in any operation to which they have conscientious objection.

20. In cases where abortion is not indicated the expectant mother should be given access to the skilled supportive services which can afford her the encouragement and help which she may need to continue the pregnancy and care for the child. This should include family planning, and, in certain cases, might also include sterilization.

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OFFICIAL REPORT OF MINUTES  
OF  
PROCEEDINGS AND EVIDENCE

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Translated by the General Bureau for Translation, Secretary of State.

ALISTAIR FRASER,  
*The Clerk of the House*

HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1967-68

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STANDING COMMITTEE  
ON  
**HEALTH AND WELFARE**

*Chairman:* Mr. HARRY C. HARLEY

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MINUTES OF PROCEEDINGS AND EVIDENCE

No. 15

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THURSDAY, JANUARY 25, 1968

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Respecting the subject-matter of

Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act to amend the Termination of Pregnancy by  
Registered Medical Practitioners.

---

WITNESSES:

*Representing The Right To Life Committee:* Dr. Gerard J. Quigley, M.D.,  
Chief of Obstetrics and Gynaecology, St. Joseph's Hospital, Hamilton,  
Ont.; Mr. Donald Land, of Hamilton; Mr. Christopher Fuller; Mr.  
and Mrs. Vincent Calzonetti, all three of Burlington, Ont.; and Dr.  
Patrick Beirne, M.D., F.R.C.S., Gynaecologist at St. Michael's Hos-  
pital, Toronto.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1968

STANDING COMMITTEE

ON

HEALTH AND WELFARE

*Chairman:* Mr. Harry C. Harley

*Vice-Chairman:* Mr. Gaston Isabelle

and

Mr. Allmand	Mr. Forrestall	Mr. Matte
Mr. Ballard	Mr. Howe	Mr. Orange
Mr. Brand	(Wellington-Huron)	Mrs. Rideout
Mr. Brown	Mr. Knowles	Mr. Rochon
Mr. Cameron	Mr. Laverdière	Mr. Rock
(High Park)	Mr. MacDonald (Prince)	Mr. Rynard
Mr. Chatterton	Mrs. MacInnis	Mr. Simard
Mr. Cowan	(Vancouver-	Mr. Stanbury—(24).
Mr. Enns	Kingsway)	

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

CORRECTION

PROCEEDINGS No. 5—Thursday, November 2, 1967.

*In the Minutes of Proceedings and Evidence—*

Page 148, last paragraph, Line 6 “(10-14)” should read “(10-14 per cent)”.

## MINUTES OF PROCEEDINGS

THURSDAY, January 25, 1968.

(18)

The Standing Committee on Health and Welfare met this day at 11.15 o'clock a.m. The Chairman, Mr. Harry C. Harley, presided.

*Members present:* Mrs. MacInnis, Mrs. Rideout, Messrs. Allmand, Brand, Brown, Chatterton, Cowan, Enns, Forrestall, Harley, Howe (*Wellington-Huron*), Knowles, MacDonald (*Prince*), Orange, Stanbury—(15).

*In attendance: Representing the Right to Life Committee:* Dr. Gerard J. Quigley, F.R.C.S.(C), F.R.C.O.G., F.A.C.S., F.A.C.O.G., Chief of Obstetrics and Gynaecology, St. Joseph's Hospital, Hamilton, Ont.; Mr. and Mrs. Vincent Calzonetti and Mr. Christopher Fuller of Burlington, Ont.; Mr. Donald Land of Hamilton; and Dr. Patrick Beirne, M.D., F.R.C.S., of St. Michael's Hospital, Toronto.

The Committee resumed consideration of the subject-matter of Bills C-122, C-123 and C-136.

The Chairman brought to the attention of the Members the correspondence received since the last meeting. He read a translation of a letter from the Director of the Police Department of the City of Montreal, and a letter from the Chief of Police of Metropolitan Toronto; it was agreed that the information sent with this last letter be printed as an appendix to this day's proceedings. (*See Appendix "CC"*). He also read the letter received from the Vancouver Police Department.

The Chairman referred to letters from the Dominion Statistician and from the Director of Health and Welfare Division of the Bureau of Statistics.

*Agreed,*—That both these letters and statistics included be printed as an appendix to this day's proceedings. (*See Appendix "DD"*).

*Agreed,*—That the letter from The Elizabeth Fry Society of Ottawa be printed as an appendix to this day's proceedings. (*See Appendix "EE"*).

*Agreed,*—That the submission of Dr. John Alexander Shanks, Obstetrician and Gynaecologist of Brockville be printed as an appendix to this day's proceedings. (*See Appendix "FF"*).

Reference was made to a letter received from Mr. A. R. Kaufman, President of the Parents' Information Bureau Ltd., of Kitchener, Ont., including a statement on the legality of sterilization.

*Agreed,*—That the above documents be distributed to the Members of the Committee.

The Chairman read the correspondence exchanged with the President of the Canadian Catholic Conference with reference to their proposed presentation of a brief to the Committee.

On motion of Mr. Chatterton, seconded by Mr. Knowles,

*Resolved* (unanimously),—That the Committee endorse the Chairman's invitation to the Canadian Catholic Conference to reconsider its decision and very strongly urge the Conference to appear before this Committee and submit a brief; and that the Chairman write them to that effect.

The Chairman introduced Dr. Quigley who, in turn, introduced the other members of the delegation.

Dr. Quigley made a preliminary statement.

*Agreed*,—That the brief presented by the Right to Life Committee be printed as an appendix to this day's proceedings. (*See Appendix "GG"*).

Dr. Quigley was questioned; he was assisted by Mr. Calzonetti and Dr. Beirne.

At 1.35 p.m. the Committee adjourned till 11 o'clock a.m. Tuesday, January 30, 1968 when the London Society for the Protection of the Unborn will present a brief.

Gabrielle Savard,  
*Clerk of the Committee.*

## EVIDENCE

(Recorded by Electronic Apparatus)

• 1116

Thursday, January 25, 1968

**The Chairman:** Ladies and gentlemen, there are quite a few matters that I would like to bring before the Committee today before we proceed with the examination of witnesses.

We have received some correspondence I think I should bring to your attention. First of all there is a letter to the Clerk of the Committee from the Director of the Police Department, of the City of Montreal. Perhaps I might just read a translation of this letter into the record.

Dear Miss Savard:

On receipt of your letter of November 27, we undertook an investigation of the scope of the abortion phenomenon in Montreal, as shown by police figures.

After examining all our files, we have found four cases of abortion reported or known to the Montreal Police for 1966, as compared with six cases for 1967.

It has been our experience that only a very small proportion of all abortions come to the knowledge of the Police. In general, these are abortions which have involved complications for the victim and in which one or more other persons are involved.

However, we learn from the medical authorities of Montreal's major hospitals that hardly a day goes by without a woman coming or being brought to the hospital after an attempted abortion.

If this is the case—and we are convinced that it is—it is our opinion that abortion is one of those offences which should be removed from the penal or criminal field, so that it can be handled by the medical and hospital authorities rather than by the police and the judiciary.

Yours sincerely,

Jean-Paul Gilbert,  
Director.

**Mr. Knowles:** Jean-Paul.

**The Chairman:** I beg your pardon?

**Mrs. Rideout:** Stan is questioning your pronunciation.

**The Chairman:** Jean-Paul?

**Mr. Knowles:** Oui.

**The Chairman:** Oui, oui. The next piece of correspondence is from the Chief of Police of the Metropolitan Toronto Police. It reads as follows:

Dear sir,

Enclosed herewith is the information requested in your letter of December 1st, 1967, relating to criminal abortions.

I have not included a very detailed report which I have on these abortions, as I feel it is not a matter for public consumption. However, if you consider it would be useful to you, for your own information and that of other members, I will be pleased to forward a copy.

Then there is a list of the abortions for the last three years giving the number of cases, the number of deaths, the method of the abortion that was attempted and the various items that were used.

Is it agreed that this information be printed as an appendix to today's *Proceedings*?

**Some hon. Members:** Agreed.

**The Chairman:** We have a letter from the Vancouver Police Department which reads as follows:

Dear Sir:

*Re: Statistics on Abortion.*

As requested by you a check of the records of this Force has been made pertaining to complaints and investigations

of abortions and the following are the statistics requested:

	Complaints and Investiga- tions	Arrests	Charges
1965	5	5	2
1966	5	4	10
1967	20	3	11

Yours very truly,  
T. F. Stokes, Superintendent  
Cmdg. Detective division.  
for: Chief Constable.

I have letters on statistics from the Dominion Statistician giving statistics on maternal deaths in Canada by province since 1921 and a compilation of deaths associated with pregnancy for the year 1964. There is also a letter from the Director of Health and Welfare Division of the Dominion Bureau of Statistics supplying figures on deaths resulting from abortion for each of the years 1960 to 1966 and a further table showing the number of charges and the number of persons charged with committing and attempting to commit abortion during the same period of time. Is it agreed that these letters and statistics be printed as appendices to today's proceedings?

• 1120

**Some hon. Members:** Agreed.

**The Chairman:** We have a letter from the Elizabeth Fry Society of Ottawa presenting their views on the subject of abortion. Can we have a motion to print that letter as an appendix to the proceedings of today also?

**Some hon. Members:** Agreed.

**The Chairman:** We have a short brief from Dr. John A. Shanks, Obstetrician and Gynaecologist from Brockville, Ontario on the question of therapeutic abortion. I have read this and I think the Members of the Committee would appreciate reading it. Can we have a motion to print this also as an appendix to today's proceedings.

**Mr. Knowles:** He does not wish to appear?

**The Chairman:** No, he does not. He said he would be willing to appear but he sent this in as a written submission.

**Some hon. Members:** Agreed.

**The Chairman:** I have a letter from a Mr. Kaufman who is President of the Parent's

Information Bureau Ltd. of Kitchener which includes a statement on the legality of sterilization. I bring this to your attention because while Mr. Kaufman is very interested in this, it is obvious that sterilization is actually outside of the terms of reference of this Committee which is dealing with only the subject matter of abortion. Now we have talked about sterilization. I think Mr. Stanbury has been particularly interested in this.

**Mr. Forrestall:** Could it be circulated, Mr. Chairman?

**The Chairman:** I would suggest that we circulate it for information rather than make it a part of today's proceedings.

**Mr. Stanbury:** A lot of questions have been raised by witnesses about this, Mr. Chairman, so I think it is relevant to what we have heard at least; whether it is relevant or not to our terms of reference.

**The Chairman:** Could I suggest that I circulate it and then at another meeting if the Members of the Committee think it should become part of our record then we could move that it be included at a later date?

**Mr. Cowan:** Are the ideas in the letter sterile or otherwise? Why waste time reading it?

**The Chairman:** Is it agreed?

**Some hon. Members:** Agreed.

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, may I ask if we have taken any decision on whether at some later date we were going to go into the question of sterilization, or have we taken such a decision?

**The Chairman:** We have never taken such a decision because we would have to report to the House asking for our terms of reference to be expanded.

Now, there is some correspondence from the Canadian Catholic Conference which, I think, I should read into the record. You all received, first of all, a notice saying the meeting to receive their brief would be held on Tuesday and then you had another letter from the Clerk of the Committee saying that the meeting had been cancelled. I will read their letter into the record.

January 15, 1968

Dr. Harry C. Harley, MD., M.P.,  
Chairman of the Standing Committee  
on Health and Welfare,  
House of Commons,  
Ottawa, Ontario.

Dear Dr. Harley:

The Catholic Bishops of Canada, you will recall, were to have appeared before your committee last December 19. This meeting was subsequently postponed to January 18, and then to January 23. In the meantime, everyone learned from the press that on December 19 your committee presented an interim report, and that two days later the Government itself brought into the House a draft bill on abortion.

In this new context and in view of the decisions already taken, the Bishops' Conference feels it cannot present a document which was written from a completely different perspective. The brief prepared with a view to co-operating in an on-going study is rendered, as you will undoubtedly appreciate, somewhat obsolete by recent events. We regret very much this development.

As a result, I have to inform you that, contrary to what was earlier requested and arranged, the Canadian Catholic Conference will not present a brief on January 23 to the Standing Committee on Health and Welfare over which you have the honour and duty to preside.

In this new situation, the Bishops intend, rather, to set before the Canadian people—in a pastoral statement to be issued forthwith—their general point of view on the moral aspect of this important question of abortion.

With sincere good wishes, I remain,

Yours truly,  
Alexander Carter  
Bishop of Sault Ste. Marie,  
President  
Canadian Catholic Conference

• 1125

As the letter was addressed to me, I answered it the day before yesterday and I will read my answer into the record.

It was dated January 23, 1968 and addressed to:

The Most Reverend Alexander Carter,  
Bishop of Sault Ste. Marie,

President,  
Canadian Catholic Conference,  
90 Parent Avenue,  
Ottawa, 2, Ontario.

Dear Bishop Carter,

Thank you for your letter of the 15th of January.

As you know the interim report was presented by the Committee to the House of Commons on the 19th of December 1967, and was followed by the proposed amendments to the Criminal Code presented by the Minister of Justice. Following this, we had a letter from the Canadian Catholic Conference dated December 27th confirming their presentation before the Committee on the 23rd of January. It therefore came as a great surprise to receive your letter of the 13th of January cancelling the presentation of your brief.

I do not see how the perspective is significantly different in the present situation; it is true that the Committee has brought in the interim report and that the Minister of Justice, the Honourable Pierre Elliot Trudeau, has brought in a bill recommending changes in the abortion laws,

and then I underlined my next few words,

but this is only proposed legislation. I would have hoped that the Canadian Catholic Conference would have felt it even more desirable to come before the Committee in view of the proposed legislation. In this way, Members of Parliament as well as the people of Canada would know the attitude of the Canadian Catholic Conference concerning abortion.

I would ask you to reconsider your position, in view of the importance of this matter soon to come before Parliament. If you still feel you do not wish to appear, I would ask that the Committee be allowed to study your pastoral letter.

Yours sincerely,

And I signed that as Chairman of this Committee.

**Mr. Chatteron:** Mr. Chairman, I would like to move that this Committee concur in your reaction and urge the Conference to appear in any event and submit a brief.

**Mr. Knowles:** I second the motion.

**The Chairman:** I am not sure that we need such a motion but if you wish I will follow this up with a letter.

**Mr. Chatterton:** It may add weight to your letter, I thought Mr. Chairman.

**The Chairman:** Fine. Is there any discussion on that matter?

**Mr. Allmand:** I gather you have not had a reply to that letter, Mr. Chairman.

**The Chairman:** No. It would have gone out two days ago and I assume that The Most Reverend Alexander Carter, being the Bishop of Sault Ste. Marie perhaps only comes down to the Canadian Catholic Conference office here in Ottawa on specified occasions so they would probably have to forward the mail onto him.

**Mr. Forrestall:** May I assure you this has probably been done.

**The Chairman:** Fine. The Clerk said she checked to see where she should send the letter and they suggested she send it to the office in Ottawa and they would see that it was given to him.

**Mr. Knowles:** I think another letter, Mr. Chairman, indicating that the Committee confirms that invitation might be useful.

**The Chairman:** Fine.

**Mr. Cowan:** With regard to the motion before you, I will support your suggestion that they reconsider and appear here but if voting for this motion means that I would be concurring in what you said, no. I do not agree with the statement that you are surprised at their action. I am not at all surprised. I cannot criticize anyone who, when they get their face slapped by an interim report before they present their own opinion, reacts the way the Canadian Catholic Conference did.

**The Chairman:** My surprise was that first of all ten days after that interim report, they wrote and said they were coming and then they wrote and said they were not coming. My surprise was that first they told us that they would and then they said they would not. This was my surprise: not at their decision not to come but the fact that first they said they were going to come anyway and then they changed their minds. In any event voting for this motion does not necessarily concur in what I said in the letter.

**Mr. Cowan:** How does the wording read? I concur in asking them to reconsider, but I will not concur on the letter.

**The Chairman:** The motion says that the Committee endorse the Chairman's invitation to the Canadian Catholic Conference to reconsider its decision and very strongly urge the Conference to appear before this Committee and submit a brief; and that the Chairman write them to that effect.

**Mr. Cowan:** All right. The word "concur" was used before.

**The Chairman:** Are there any other points of discussion on this matter? All those in agreement. Is there anyone opposed?

Motion agreed to.

**The Chairman:** I will see that that is done today.

• 1130

We will now carry on the meeting and introduce today's witnesses.

**Mr. Cowan:** Mr. Chairman, might I ask one question on all the correspondence you are reading?

**The Chairman:** Certainly.

**Mr. Cowan:** You read an interesting letter from the director of something or other in Montreal expressing his opinion of a policeman on the matter. Will the House of Commons pay any more attention to the recommendation of that policeman do you think than they have paid to the recommendation of the Canadian Association of Chiefs of Police who favoured the retention of capital punishment?

**The Chairman:** I have no idea what the answer would be Mr. Cowan. You are a Member of this Committee and you will be voting on what this Committee does in its report to the House. Are there any other questions on the correspondence?

If not, we will move on to the presentation. We have a group with us today, The Right to Life Committee and I ask the chief spokesman to introduce his group and make a brief presentation. I think you have all received copies of their brief some days ago. I will introduce Dr. Quigley, F.R.C.S.(C), F.R.C.O.G., Chief of obstetrics and Gynaecology, St. Joseph's Hospital, Hamilton, Ontario. Dr. Quigley?

**Dr. Gerard J. Quigley, F.R.C.S.(C), F.R.C.O.G., F.A.C.S., A.C.O.G.,** (Chief of Obstetrics and Gynaecology, St. Joseph's Hospital, Hamilton, Ontario, Representative of The

**Right to Life Committee):** Mr. Chairman, Ladies and Gentlemen, I have been privileged to be invited by this group to be their spokesman. You have listed some of the qualifications that I think I possess to be their spokesman. In addition to which I would point out that the department I head in Hamilton is a large one affiliated with the University of Western Ontario and the newly created McMaster University for postgraduate training and I am a member of the faculty of McMaster University. On my right is Mr. Vincent Calzonetti, a Hamilton businessman residing in Burlington. He is the head of The Right to Life Committee. To his right is Mrs. Calzonetti, his wife, who has been actively supporting the organization and who, by her past obstetrical history is eminently qualified to sit on this committee. Mr. Calzonetti and his wife by virtue of their genetic background are further highly qualified members of such a committee. On Mrs. Calzonetti's right is Mr. Donald Land, a Hamilton businessman and resident, who has been very active in the work of the committee; he has done a great deal of research, particularly into the published reports in the press. On his right is Mr. Christopher Fuller, a Burlington businessman and resident who has also been very active in the organization of our efforts and who has handled much or all of the publicity that has come about our efforts.

Our Committee was formed last fall on the initiative of Mr. and Mrs. Calzonetti, who had been replying to the press, opposing some of the views that had been expressed in the press in favour of a change in the abortion law. Many other people were doing the same thing in the Hamilton and Burlington area and Mr. Calzonetti contacted these people with a view to unifying the efforts. Out of this grew the Right to Life Committee.

From the first very small private meeting support for their program has rapidly increased; they have held two public stated meetings. One was held in Burlington during December in one of the public high schools at which approximately 300 people were present. Later, in January, a meeting was held in the ballroom of the Royal Connaught Hotel in Hamilton at which some 700 to 800 people were present, and it may be significant that it was on an extremely inclement night when the weather was characterized by very severe ice storms and high winds.

I, personally, have appeared on a radio program over CHML in association with another obstetrician who came for the occasion from London, Ontario; who is, I might add, not a Catholic, and who is Associate Professor of Obstetrics and Gynaecology at the University of Western Ontario. Also on that program was a pediatrician.

The public interest in our area is now very high in respect of this subject matter. We have considerable support for the objectives which we have stated. Our objectives are perfectly straight-forward. First to oppose any broadening of the present law on abortion. Second to see that the public is fully informed on this very vital subject so that it is aware what is at stake if the law is amended. Third we are interested in the correction of the present ambiguity and contradictions that exist in the Criminal Code pertaining to the matter of abortion. Fourth we hope that whatever the ultimate law the House of Commons, in their wisdom, sees fit to pass, will be rigidly enforced. Our methods have been simple. We have attempted very sincerely in all of our presentations, which includes today's, to be objective, to be factual, and we have tried at all cost to avoid any form of sensationalism and emotionalism.

The Right to Life Committee is composed of citizens who have a deep concern for basic rights, who are disturbed by a growing attitude of indifference to certain human rights and who are anxious about the effects of easier abortion laws on the life of this nation in the future. I would like to stress, if I may, one or two points that we have made in our brief, particularly that the right to life is the most basic of all human rights and that the foetus is a human life from the moment of conception as determined and illustrated by known biological science, particularly in the field of the newly-created science of molecular biology.

It is the duty of your Committee and of the government of this country to recommend the measures that protect all human life. We do not deny that some genuine medical indications for abortion do exist where the mother's life or life expectancy is in serious jeopardy; but many, if not most of the traditional medical indications for abortion have long ceased to exist.

On the hand this committee has already received evidence that if the program of the Canadian Medical Association for instance, were implemented through the House of Commons, this would only take care of 10 per

cent of patients desiring abortion. This Committee has to realize there is only one way of satisfying the other 90 per cent and that is to grant a program; to legalize a program of abortion on demand. This is where the real political pressure is coming from. This is the reason for the clamour to widen the abortion laws; to get rid of unwanted babies, defective babies; to remove the professional abortionist from the scene; this consideration without any thought to the actual fact that most criminal abortions are self-induced; they are not done by criminal abortionists. Is this what the Canadian people want?

Apart from other considerations most informed persons now admit that the statistical information which is applied and presented, particularly in the field of criminal abortion, is completely unreliable. It is further complicated by the fact that witnesses have appeared before this Committee and talked about abortion without explaining the fact that the lay term of miscarriage is no longer in medical terminology. A spontaneous miscarriage is a spontaneous abortion, and 10 per cent of all pregnancies end as spontaneous abortions. That figure might even be a little low; but again it is extremely hard to prove. Therefore even valid reports of total abortions can be misleading if the total includes what the layman calls a miscarriage.

We submit that far greater study both here and abroad is needed before any widening of the law is proposed. We submit that your Committee and the government have recommended a change in the law to include health grounds, without adequate information on such a vital issue and without any definition of the meaning of the word "health".

Mr. Chairman, this is the major text of our plea; we have come to this meeting today to present our views personally; to answer your questions; to assist, if we may, in the determination of a proper solution to a most serious, medical, moral, social and economic problem of the greatest importance.

**The Chairman:** Thank you very much, Dr. Quigley. Before we proceed with the questioning, is it agreed that we print today's brief as an appendix to today's proceedings.

Agreed.

**Mr. Chatterton:** Mr. Chairman, if I remember correctly, Dr. Quigley said that only some 10 per cent of the abortions actually carried out are criminal abortions. Is that what you said? Did I misunderstand?

**Dr. Quigley:** 'Oh no, no sir. I made the statement that the Humanist group from Montreal—I am not sure that I referred to them in my presentation—and their spokesman, who is a Montreal physician, stated that if the proposed recommendations of the Canadian Medical Association, for instance, were implemented, this still would only take care of 10 per cent of those people who are desirous of abortion. I do not know where he gets his 10 per cent; I think it is his opinion. I do not think it is possible to know how many people really want abortions.

**Mr. Chatterton:** Mr. Chairman, if I may just comment then; I want to commend Dr. Quigley and his group for emphasizing the fact that we have in fact made a tentative decision based on completely inadequate information. To me this is the most significant part of his brief presented today. I hope that before we make a final decision we will make every effort to get information from every part of the world that might lead us to a conclusion which would solve the problem. Certainly in my opinion the information, we have had today does not permit me, in any event, to make up my mind as to how we can solve this problem.

**Mr. Allmand:** Dr. Quigley, I recently read an article by a gynaecologist from the University of Notre Dame in the United States in which he says that there really is not a pregnancy until six days, approximately six days, after the ovum is fertilized by the sperm. In other words, he says it takes approximately three days to come down the tube and three days before it lodges itself on the side of the uterus. I am not a doctor but I am trying to use these terms. He said that in that period of time, if steps were taken, this could be considered as contraceptive rather than an abortion.

He suggested that the Catholic Church's definition of abortion in their theology probably was based on outdated scientific knowledge. The definition of abortion went back so far; it went back before the period where they knew this three days plus three days time lag. He suggested that perhaps steps that might be taken, such as the new pill that is being developed as an after-the-intercourse-act pill that prevents the fertilized ovum from lodging itself on the side of the uterus, could be considered not as an abortion procedure but as a contraceptive procedure. He also mentioned other types of things such as the loops and so forth.

The reason I bring this up is that people who have talked about rape and criminal incest and such things want abortion for these reasons and other people have said, "Well, you do not have abortion for these reasons because you can stop the development of the pregnancy before it really becomes a pregnancy by doing it before the fifth day,"—and so forth.

• 1145

It seems that you have some experts here and you, yourself, are a gynaecologist. Could you give me your opinion on this sort of thing? In other words, could you allow things to be done in that period of time and not have them considered as abortions but as contraceptives. Let us say, if there was a person raped, and if other pills and processes were developed that were after the act but still prevented eventually a pregnancy in this sense...?

**Dr. Quigley:** I think that depends on one definition of a pregnancy and how one looks upon the products of conception. I have to presume, if I may, that there is some familiarity with pelvic anatomy. Conception takes place at the outermost portion of the fallopian tube and the division and development of the conceptus begins there. Now, a basic view is that this is a human being from the moment of conception. I think that thought is fundamental in my answer.

**Mr. Enns:** Is it a human being at that point, sir?

**Dr. Quigley:** This is my statement.

**Mr. Allmand:** Sir, a doctor from the University of Notre Dame suggested that at that stage this fertilized ovum could end up being either one person, two persons, several persons. He means, maybe, that it could be twins or quintuplets. He said it could even be—I forget the technical word—but it might end up as nothing at all. Before it actually lodged itself on the side of the uterus and became—he said, in words, it could end up as a fetus at that stage that you described. It could end up as many persons or no persons whatsoever. This is a very technical thing for me but it means a lot to us, to many of us...

**Dr. Quigley:** It is technical, as you point out. I think I can answer that question to clear up any confusion which you may have. I think there is one point, just so there is no

gamesmanship. The name Notre Dame is very famous and very prominent.

**Mr. Allmand:** I forget the name of the doctor—I left the bulletin...

**Dr. Quigley:** He was from Notre Dame?

**Mr. Allmand:** I think he was.

**Dr. Quigley:** Unless it is of extremely recent origin Notre Dame does not have I think—are you talking about Notre Dame in the United States?

**Mr. Allmand:** Yes.

**Dr. Quigley:** Notre Dame does not have a medical school. He cannot, I would think, properly use the impact of the name Notre Dame. I think this should be cleared up.

Now, the statement you made is true. Fertilization takes place in the outer end of the fallopian tube and division starts, and this will proceed on to a single human being, twins, triplets, or possibly nothing, and I will come back to that in a moment if I may. It takes six days to make the trip from the site of fertilization in conception to the cavity of the uterus. During this period of time the lining of the cavity of the uterus is being prepared by hormonal preparations to receive this fertilized ovum. Therefore, the answer to your question is that if you make it impossible for this fertilized ovum to implant in the cavity of the uterus than you have practised contraception and not abortion.

**Mr. Allmand:** Well, that is the question.

**Dr. Quigley:** I think here you are going to get into personal views of what is a pregnancy; when is a living human being in existence? My own personal view would be that such an act, for instance doing a D. and C. in that five to six days before the conceptus reached the cavity of the uterus and thereby making it impossible to implant in the cavity of the uterus, is by my definition an abortion. That is not contraception because conception has already taken place in the far out end of the fallopian tube.

**Mr. Allmand:** I just wanted your opinion. Would you agree—?

**Dr. Quigley:** This is my personal opinion.

**Mr. Allmand:** There is a difference of opinion among specialists though in this field whether that is contraceptive or an abortion.

**Dr. Quigley:** Quite.

**Mr. Allmand:** You would agree that there is a difference of opinion?

**Dr. Quigley:** There is a difference of opinion—quite.

**Mr. Chatterton:** Mr. Chairman, I have a supplementary. Is it possible for that—what do you call it—conceptus...?

**Dr. Quigley:** Yes.

**Mr. Chatterton:** Is it possible for it to develop if it does not lodge on the inside of the uterus?

**Dr. Quigley:** Yes, it is. It may be stopped in the fallopian tube itself and continue to develop, in which case you have what is known as an extra-uterine pregnancy usually referred to as a tubal pregnancy, and from this stage it may rupture—the tube may rupture—and you are faced with a serious surgical emergency. There are recorded cases of where it has either ruptured or in some manner become implanted on the abdominal wall—on the intestinal contents—and progressed to term outside of the uterus entirely. These are known as abdominal pregnancies. They are very rare. I have seen one which was the second case—I was then a student—in the Toronto General Hospital in 35 years. That is the only one I have ever seen.

• 1150

**Mr. Chatterton:** In other words, it is not essential for that organism to grow to be launched inside the cavity of the uterus.

**Dr. Quigley:** That is correct.

**Mr. Stanbury:** Mr. Chairman, may I ask a supplementary question? I do not want to interrupt the questioning but I think on this point we had better try to get our facts clear before we proceed because it is so important. Is my impression correct that the canon law of the Catholic Church permits measures to be taken during that period you referred to before a pregnancy occurs, if I am using the correct term, but after conception in a case where the conception has taken place as a result of rape or incest?

**Dr. Quigley:** First of all, Mr. Chairman, I am not a canon lawyer, but I know of no such teaching. The teaching or practice of the Church that has been condoned is that authorization has been given to certain religious groups practising primarily in South America to use the oral contraceptive to pre-

vent pregnancy in the event of subsequent rape.

**Mr. Stanbury:** I am looking at an article written by the Rev. Robert F. Drinan, S.J. on the subject of abortion and he refers the reader, as an example of authorities on this subject, to McHugh, Callan & Wagner, *Moral Theology* (1930). He says, if I can paraphrase, that most manuals on Catholic moral theology touch on the subject and that prevention of pregnancy during that period in a case where conception has taken place as a result of rape, is permitted under the canon law of the Catholic Church.

**An hon. Member:** That is not so.

**Mr. Stanbury:** As a non-Catholic I am particularly interested in trying to get this clear in my mind because I think this is basic to your whole submission, and I find it hard to reconcile these statements.

**The Chairman:** Perhaps I should just mention that it has not even been established that Dr. Quigley is a Roman Catholic. This has not come up; perhaps he is not.

**Mr. Stanbury:** I am not concerned, really, whether or not he is if he knows whether or not this is the case.

**Dr. Quigley:** I would like to clear up one of the Chairman's points. I may be digressing for a second and I hope I will be indulged, but one of my major problems in the association that has been established with this Committee has been to try to act as a doctor in spite of the fact that I am a Roman Catholic, which I am. My views are medical and when I talk about abortion I am not talking as a Roman Catholic.

Now, I would say that is in error. I think you mentioned the year 1930 and I would say that modern thinking—I do not recognize any of the names that you mentioned, but I repeat I am not a canon lawyer nor a moral theologian. Those men in this field that I have discussed it with do not subscribe to this view.

**Mr. Stanbury:** All of them judgments, I might add. I think Mr. Allmand should proceed. I do not want to pursue the question at the moment.

**Mr. Allmand:** I have finished.

**The Chairman:** I was going to say I think this just emphasizes the fact that the Commit-

tee would like to hear from the Canadian Catholic Conference on this point. Mr. Forrestall?

• 1155

**Mr. Forrestall:** Just to clarify that I agree with the doctor on the question of the moral position of the Catholic Church. I have heard to the contrary; I have never heard anything that would substantiate that point of view.

For a few minutes I would like to talk about what appears to be the growing indications in your practice upon which people base their pleas to the medical profession and to hospitals for abortions. My understanding as a layman, and you will forgive me, is that there are generally three; the medical, the psychiatric, and less talked about in a direct approach but probably very significant, the socio-economic indication or ground.

In your experience can you tell the Committee which of these would seem to prevail? For example, do you have people coming to you pleading for abortion on medical grounds and indeed upon investigation find that it is not really a medical indication that can be helped? Would this similarly be true for psychiatric indication that might come before you? Could you comment, generally or briefly.

**Dr. Quigley:** Yes sir. I will try to answer your question from my own experience and from discussion and dialogue with my colleagues in practice. Medically there is almost no longer any indication for therapeutic abortion in the light of modern medical knowledge.

**Mr. Forrestall:** Would you develop that just a bit?

**Dr. Quigley:** I am not quite sure along what lines you would like me to develop it; the why?

**Mr. Forrestall:** When you say that, are you saying doctor, that if there is a medical problem, indeed the science or the art now is developed to the extent that it can be corrected?

**Dr. Quigley:** We can handle the problem and the pregnancy.

**Mr. Forrestall:** Including, for example, the german measles indication?

**Dr. Quigley:** I think so, yes. That is not a medical indication for termination of pregnancy. That is genetic. It is not genetic, real-

ly; it is the anticipation, it is not genetic. It is the anticipation of a deformed infant.

**Mr. Forrestall:** I am sorry to interrupt your chain of thought, but what would be a medical indication, a tubular pregnancy that had resulted in a hemorrhage or eruption?

**Dr. Quigley:** A tubular pregnancy is an acute surgical condition and to save the life of the woman—the pregnancy *per se* is probably not interfering with that woman's life, but what that pregnancy has done to her it puts her life in serious jeopardy. What it has done is ruptured her fallopian tube with quite massive inter-abdominal hemorrhage and therefore your aim in therapy is to treat her hemorrhage; in other words, remove that fallopian tube.

**The Chairman:** Perhaps I as a physician could say I think Mr. Forrestall is referring to cases that used to be terminated from causes in the mother such as chronic rheumatic heart disease, valvular disease, or chronic kidney disease.

**Dr. Quigley:** Is this your line, sir?

**Mr. Forrestall:** I was curious about what you meant and I did not mean to interrupt your flow of thought. I was curious what a medical indication would be.

**Dr. Quigley:** Let us say 25 or 30 years ago there were medical indications such as the Chairman has suggested—advanced rheumatic heart disease, progressive kidney disease, tuberculosis and others. These are no longer indications for abortion in the light of modern medical management of these conditions.

**Mr. Forrestall:** Thank you, that explains it.

**Dr. Quigley:** If I may digress for one brief second, you heard a word from my right and I apologize to the Chairman and this Committee and to the gentleman involved. We were joined this morning quite unexpectedly by Doctor Patrick Beirne who shares the same qualifications that I possess to speak medically with the exception that he is on the staff of St. Michael's Hospital in Toronto and on the faculty of the University of Toronto and it was this Dr. Bierne who just referred to tuberculosis. These have gone by the board.

**Mr. Cowan:** Well, all right. He possesses qualifications you do not possess; he comes from Toronto.

**Dr. Quigley:** I think that is a debatable point: I was from Toronto but went to Hamilton.

I am not a psychiatrist but I am very much impressed with the impact of emotional factors in the practice of medicine and perhaps particularly in my own field in the study of gynaecology, so that although I am not a psychiatrist, I am very much interested in psychiatry. I have discussed this subject with my psychiatric colleagues and they feel there are no psychiatric indications for abortion. They do feel very strongly—vehemently—that psychiatric reasons are being used when the true reason is not psychiatric but socio-economic. Our own director of psychiatry feels most strongly about this. He feels that the specialty, which is a young specialty as you well know probably has not been developed to the length of time that one is able to say truly that psychiatric disease will jeopardize the life of a woman who is pregnant. The psychiatrists feel very strongly about this. They further feel very strongly—there are opposing views, of course—some of them feel very strongly that the termination of a pregnancy in a psychiatrically disabled or diseased woman, may actually aggravate her psychiatric state.

And finally, socio-economics—really, I think that is what we are talking about. The vast majority of indications today for abortion are socio-economic and I think that is what this Committee and the Houses of Parliament will have to face. There is only one way, as I can see it, to handle socio-economic indications for abortions, if they are an indication, and that is to grant an abortion law which permits abortion on demand. The fascinating thing about this is that one of the most liberal countries in the world, and considered to be one of the most advanced—Sweden—is now retreating from this.

**Mr. Chatterton:** I do not wish to interrupt but I want to be clear that I understood the evidence that Dr. Quigley gave. Do I understand that really there are no medical grounds for abortion? Is that approximately what you said?

**Dr. Quigley:** I do not think I can subscribe to absolutes, but in the main that is so.

**The Chairman:** Could I ask one question for clarification? You are the Chief of Obstetrics and Gynaecology at St. Joseph's Hospital in Hamilton. Are therapeutic abortions ever carried out at St. Joseph's Hospital in Hamilton?

**Dr. Quigley:** No, they are not.

**Mr. Howe (Wellington-Huron):** In your original statement, Dr. Quigley, you mentioned something about the fact that mental health has never properly been defined in connection with the health of the mother. Could you give us a definition of what you believe it is? You intimated to Mr. Chatterton that there might be some area where this might be a factor.

**Dr. Quigley:** I think this is very serious because the word "health" is used rather loosely. Are you talking about a cold in the nose? Are you talking about a girl who comes into your office and says that she is so upset at being pregnant and so forth? Somebody can say that this girl is really upset and her health is jeopardized. Is this serious enough for abortion? You are going to have to define "health" as it might apply to an indication of abortion, and I really attempted to do that in my submission when I suggested that I do not deny that some genuine medical indications for abortion do exist or may exist where the mother's life or life expectancy is jeopardized. In other words, one might consider health as an indication for abortion if the deterioration of her health is going to be to a degree that it will jeopardize her life expectancy.

**Mr. Howe (Wellington-Huron):** One further question. What would those circumstances be?

**Dr. Quigley:** It could be advanced kidney disease. That might be one. If I may try to describe it, you might have a patient with some form of advanced kidney disease, of which there are many, who now has a superimposed pregnancy upon these diseased kidneys. In a state of non-pregnancy, she is able to get by from day to day, but with her existing disease she certainly does not have the life expectancy of three score and ten years. Let us imagine for the sake of argument, that she is going to live to be 50 and her sister is going to live to be 70. If you superimpose a pregnancy upon these existing diseased kidneys and there is little doubt that with good medical management she can be brought through that pregnancy, but that pregnancy may have knocked another year, two or five years off that already reduced life expectancy. This is what "health" would mean to me.

**Mr. Howe (Wellington-Huron):** This is one instance. Are there any other instances?

**Dr. Quigley:** Some forms of far advanced rheumatic heart disease, although these are extraordinarily rare today. These are being treated in pregnancy. There is a group at the Toronto General Hospital who think nothing of opening the heart of a pregnant woman, correcting her valvular disease, closing her up and her pregnancy proceeds on schedule. It is not very high. It is very low.

**The Chairman:** Perhaps it would be worth while here to actually read into the record what this Committee's recommendation said so we know what we are talking about in the way of health. It says:

Section 209 (2) of the Criminal Code be amended to allow therapeutic abortions under appropriate medical safeguards where a pregnancy will seriously endanger the life or the health of the mother.

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, do you have the proposed change to the Criminal Code, too?

**Mr. Allmand:** It was more liberal. The proposed change in the Criminal Code...

**The Chairman:** I do not think it was defined. I think it just said "life or health". I do not think the words "seriously endanger" were there, although I do not have it here in front of me.

**Mr. Allmand:** We did not use "seriously endanger".

**The Chairman:** Mrs. MacInnis.

**Mr. Forrestall:** May I finish?

**The Chairman:** Yes, I am sorry.

**Mr. Forrestall:** If that is possible!

**The Chairman:** We are getting so many supplementaries here, we are getting lost in the maze of questioning.

**Mr. Forrestall:** I have one further question which I will ask very briefly. It deals with the inclusion of the word "health" because the chairman has not used and introduced it. During your opening remarks, Dr. Quigley, you used the words, perhaps unconsciously, "life or life expectancy". In the sense that we included the word "health" in our interim report, in your opinion, would the words "life expectancy" have been more appropriate?

**Dr. Quigley:** Yes, I think so. This is a gradation of health. In other words, you have to define; you have to draw a line. I am not

being entirely facetious when I state that somebody could say, "I am so upset; I am so nervous about this pregnancy that you have to abort me." Now, her health at this particular moment is interfered with. She is a nervous, upset, anxious, possibly depressed, woman. Is this going to be sufficient justification for terminating that pregnancy? Her health at this moment is interfered with.

**Mr. Knowles:** May I ask a supplementary at this point? May I, in doing so, draw on your example of the woman who has a chance to live to 50 but might die at 45 if something is not done about her pregnancy? I gather you regarded that as a medical indication...

**Dr. Quigley:** Yes, sir.

**Mr. Knowles:** ...so that you do not go for an absolute. Would you, as a doctor, not feel that it would also be a medical indication that you believed that woman was still going to live to 50 but would have poorer health during those years than would have otherwise been the case? In other words, is there not something more to health than just the number of years that one will stay alive?

**Dr. Quigley:** Yes, I think there is more. Perhaps I created a poor illustration when I talked about a decrease in the number of years. Yes, I agree with you. There is more to health.

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**Mr. Knowles:** So that life expectancy in your definition is not just years of existence, but years of healthy living.

**Dr. Quigley:** You are getting right back to where we were. What is healthy living? This is a vague, ill-defined term. I cannot comment on a term such as that because I do not know what you mean.

**Mr. Forrestall:** I will finish my remarks at this point while Mr. Knowles thinks over what he means by that. I will conclude by expressing not only my appreciation for the position you have taken and the work you have done, Dr. Quigley, but those of the Committee as well. I am grateful and I join with Mr. Chatterton in expressing thanks for your stressing the need for a much further appreciation, indeed, inter-discipline appreciation of the medical experiences of other countries in this regard.

**The Chairman:** Mrs. MacInnis?

**Mrs. MacInnis (Vancouver-Kingsway):** I would like to associate myself with the remarks of Mr. Forrestall and others, and also to say how very much this Committee appreciates the clarity with which this brief was set out by Dr. Quigley.

I gather, Dr. Quigley, that you wish the present law to be clarified only to the extent of determining which of those two sections in the Criminal Code shall prevail.

**Dr. Quigley:** No, because as I understand the Criminal Code, one section permits abortion where the life of the mother is at risk.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes.

**Dr. Quigley:** The other section—and I am asking questions now—forbids abortion under any circumstances whatsoever.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, that is what I say, that you wish it clarified to the extent...

**Dr. Quigley:** Yes, clarification is mandatory. Also we have stated, and I as a physician would state, that I would concede that medical indications might exist from time to time, and therefore I think that those men, who in all good professional knowledge feel that a woman's life expectancy or her health is in serious jeopardy—and again even "serious" is a vague word—go ahead and do therapeutic abortions in good faith. As one of my staff, a Jewish gentleman, stated to me not so long ago, that he would like to see the law clarified so that doctors can do most of what they are doing today in hospital without fear of prosecution. Now, I think this fear of prosecution is a material one.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes. In other words, you do not want to see the law go any further than to make it protect the doctors, which would be achieved by clarifying the Code in that way.

**Dr. Quigley:** That is right.

**Mrs. MacInnis (Vancouver-Kingsway):** Probably you think you have covered this, and perhaps you have; I gather that you are not happy about the inclusion of the words "and health", the health of the pregnant woman, as proposed in the Criminal Code.

**Dr. Quigley:** I am very unhappy because I do not know what is meant; I think you are getting back to the same thing.

**Mrs. MacInnis (Vancouver-Kingsway):** Let me ask you this: Perhaps I am wrong but I think it would be the feeling of this Committee that such an amendment would give to the doctors the leeway to interpret what was meant by "and health". May I ask you whether you do believe that the doctors are sufficiently competent and trustworthy to make that decision?

**Dr. Quigley:** All doctors?

**Mrs. MacInnis (Vancouver-Kingsway):** Doctors.

**Dr. Quigley:** At large?

**Mrs. MacInnis (Vancouver-Kingsway):** At large.

**Dr. Quigley:** No.

**Mrs. MacInnis (Vancouver-Kingsway):** You do not?

**Dr. Quigley:** No, I think the only group that can make such a decision is an abortion committee made up of highly competent and highly qualified men. More than one opinion is mandatory. I think—correct me if I am wrong—it is suggested that there should be an abortion board of two men. In my own community in the other major hospital in the city where therapeutic abortions are done, the board is five men now, with others available as necessary.

**Mrs. MacInnis (Vancouver-Kingsway):** Then may I ask you whether you would be satisfied if the term "and health" were in there providing there were some amendment to the effect that this shall be decided by an abortion committee?

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**Dr. Quigley:** Oh, yes, I would accept that—a qualified abortion committee.

**Mrs. MacInnis (Vancouver-Kingsway):** If the present proposal to the Criminal Code, including "the health" went in there, provided that there also went in there a definition that such decision must be made by a qualified abortion board in a hospital?

**Dr. Quigley:** I think this is the only safeguard you can build in to this word "health". You cannot define "health". You could sit here until the next centenary and you are not going to define what is meant by "health". If you leave it to the judgment of sincere, competent, qualified physicians to arrive at a

decision of whether this patient's health is or is not going to be sufficiently interfered with by this pregnancy and whether or not to do an abortion, I think this is the only safeguard you can have.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, but if I may say again, at the present time the Code merely gives leeway in case there is danger to the life.

**Dr. Quigley:** That is right.

**Mrs. MacInnis (Vancouver-Kingsway):** It would not protect the doctors, from what I can learn, if they were to make a decision not only on the immediate "life" thing, but on the "health" thing.

**Dr. Quigley:** Do you mean at the present time?

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, even if those words are added.

**Dr. Quigley:** It will not protect the doctors, but the fact remains that these abortions are being done.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, I know. But would you not agree that it would be better, when the Code is being opened up now, to put in that further safeguard. The doctors have been suffering because the word "life" has not been clear enough. Would it not be a wise idea to clarify it further and protect the doctors to the extent of making the saving of the health also a permissible activity...

**Dr. Quigley:** We get back to the same question, what is health? If you are suggesting that the doctors themselves, sitting on this board, will decide that the health of this patient is going to be interfered with seriously—seriously enough to justify the termination of a pregnancy...

**Mrs. MacInnis (Vancouver-Kingsway):** Yes.

**Dr. Quigley:** ...then I would accept it.

**Mrs. MacInnis (Vancouver-Kingsway):** Oh, then we have got to the stage where you would accept an amendment in the Criminal Code to that effect, to cover the health, provided that the interpretation is left to an abortion board on which there were properly qualified medical personnel.

**Dr. Quigley:** I think you have to.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, all right. I would be interested in getting your comment on something else. You mentioned Dr. Morgentaler of the Humanist Society. Dr. Morgentaler and some of the other witnesses that we have had before us, have taken the attitude that a woman's body ought to be hers to determine what she did or did not do with it in connection with having a child. What do you think of that?

**Dr. Quigley:** I think it is utter and absolute nonsense.

**Mrs. MacInnis (Vancouver-Kingsway):** Why?

**Dr. Quigley:** I think it partly belongs to her husband for one thing.

**Mrs. MacInnis (Vancouver-Kingsway):** Her body?

**Dr. Quigley:** Yes.

**Mrs. MacInnis (Vancouver-Kingsway):** Does her husband's body belong to her?

**Dr. Quigley:** Most emphatically.

**Mrs. MacInnis (Vancouver-Kingsway):** Such, has not been the case...

**Dr. Quigley:** Most emphatically.

**Mrs. MacInnis (Vancouver-Kingsway):** ...in a great many cases. In other words, you repudiate the idea that a woman's body is her own business?

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**Dr. Quigley:** Totally and absolutely. We may come back to this question.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, I would like a little bit more, could you give me a little bit more explanation?

**Dr. Quigley:** I feel that I am that dogmatic and absolute about it that I cannot add anything to that statement.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes I know, but can you not amplify a little bit?

**Mr. Chatterton:** What if the woman is not married?

**An hon. Member:** A good point.

**Mr. Chatterton:** What if she is not married?

**Mrs. MacInnis (Vancouver-Kingsway):** Yes.

**An hon. Member:** Who does the body belong to?

**Mr. Cowan:** She sold it.

**Mr. Knowles:** Ralph Cowan knows everything.

**Mr. Cowan:** That is true.

**Mr. Chatterton:** Now, that was not obscene.

**An hon. Member:** It puts that into a rather difficult context.

**Mr. Cowan:** Mr. Chairman, I do not want to ask questions of the members of the Committee, but considering the fact that an ordained minister's daughter is on the Committee, is there not a statement in the Bible that says that at marriage they become one flesh and one body? I did not write it; I have heard it preached by Methodist ministers though.

**The Chairman:** I think the question pertains to those people who were outside of marriage, not inside marriage.

**Mr. Cowan:** Yes, I am speaking about the earlier reference to married people.

**Mrs. MacInnis (Vancouver-Kingsway):** I think that will do just now, thank you, Mr. Chairman.

**Mr. Brown:** Dr. Quigley, most of the questions I was going to ask you have been answered in the supplementary questions and the other questions by members of the Committee. Perhaps I could go back and ask something that you might consider a very stupid question, but I want to have it explained to me a little bit. The word "miscarriage" was used and I am just a little confused in my mind about miscarriage and abortion. Just what does it mean, perhaps you could enlighten me?

**Dr. Quigley:** First of all, Mr. Brown, may I tell you what I tell my patients; there is no such thing as a stupid question.

The word "miscarriage" originally was used medically to refer to the termination of a pregnancy in the first 12 to 14 weeks. Now that the word has been dropped and the word that is used medically is "abortion", and then the abortion is further identified and qualified. An abortion may be spontaneous, therapeutic, missed, habitual; these are some of the qualifying adjectives that are applied to the word. It may be what is now referred to as the first trimestral abortion, this is what the miscarriage used to be. It is now called a first trimestral abortion, or if it occurs after the 12 to 14 weeks of gestation it is now

called a second trimestral abortion. The word abortion is used to cover the termination of all pregnancies up to the period of viability. Viability is when that child is capable of living on its own, at least in theory. After that, when the word "abortion" no longer applied medically, it then became a premature labour in delivery. Does this clarify it?

**Mr. Brown:** Yes, that helps very much, Doctor. I will look to see if I have another question here.

What changes could you recommend to us that might be made in the Criminal Code as it exists today? What changes might we recommend to the House of Commons to be put to the present provisions of the Criminal Code? Had you anything in mind?

**Dr. Quigley:** Yes sir, I think that first and foremost, as I said in my original comments, the present ambiguity and contradictions in the law that exist today must be clarified.

Secondly, I think that a ground for performing therapeutic abortions, a program for performing or granting therapeutic abortions must be thoroughly established for the use of the profession. I think that there must be rigid explanation of such words as "help", and I think there must be rigid enforcement of the laws as they now exist.

I would say, and I say this in respect, I think that going over the minutes of this Committee in its previous meetings, I am impressed with the number of bodies that have appeared here and their sincerity beyond question. However, I think that this Committee could get more accurate and valid information than they have yet obtained by summoning before it somebody such as a prominent psychiatrist. Now, who that would be I am not prepared to state; but if you got expert psychiatric evidence presented to you, objective and in person—and you have done this on one instance in the matter of genetics—I do not think that the evidence that was presented to you, as I have read it in the minutes, was either impersonal or objective.

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If only you could get such an individual to present to this Committee expert evidence on, for instance, the psychiatric indications for abortion, and have all your Committee and other such experts to interpret these views for you, and have a dialogue between two experts! For instance, you could also, on the medical indications of abortion, summons

here a great many people in this country who are professors of obstetrics and gynaecology, who could tell you what are the medical indications for abortion, what are the medical indications as they are practised in the Montreal General Hospital, in the Royal Victoria Hospital, and so forth and so on.

It would be interesting to try and find out what the indications were in some of the non-university hospitals. There is a very fascinating article recently recorded from the Tampa General Hospital in just the manner of therapeutic abortions for psychiatric grounds, and that institution was running a 77 per cent incidence. Let me rephrase that if I may; 77 per cent of the therapeutic abortions done in the Tampa General Hospital were on psychiatric grounds. The Hospital Audit Committee then instituted a program of retrospective study of all abortions done for psychiatric reasons. They did not try to stop it; they just studied these cases after the abortion was done, and with the institution of this program there was a 50 per cent decrease in the number of therapeutic abortions done on psychiatric indications. A man just knowing that his case is going to be studied has to give his reasons.

**Mr. Enns:** But sir, it is not possible that you are suggesting to us to find this expertee? If we wanted to we could find persons of expert knowledge to come down squarely on either side of this question; medical evidence, psychiatrist evidence and church evidence.

**Dr. Quigley:** Oh, yes sir.

**Mr. Enns:** Yes, so I suggest that would not help us really with the basic question.

**The Chairman:** May I just remind Members that we have already had two psychiatrists before the Committee and I think that they did represent two alternate sides of the question. Are there any other questions, Mr. Brown?

**Mr. Brown:** Dr. Quigley, I would like to say that you have helped us very very much, you and your Committee, and we are very much indebted to you. You have given us some ideas of future work that could be in front of us, I think.

**The Chairman:** I was just going to say, before we pass on to the next question, Mr. Stanbury, I have the Omnibus Bill in front of me, and the wording that you are interested

in in the bill is—talking about a therapeutic abortion committee:

has by certificate in writing stated that in its opinion the continuation of the pregnancy of such female person would or would be likely to endanger her life or health...

**Mr. Stanbury:** Who must certify that?

**The Chairman:** A therapeutic abortion committee. Then it goes on to say how they should be set up, et cetera.

**Mr. Stanbury:** Mr. Chairman, I think Dr. Quigley has elaborated considerably on the brief in his answer to questions. I gather that what you have read conforms pretty well to his opinion about the safeguards that should be built into the law, that there should be a requirement that a therapeutic abortion committee determine whether or not there are medical or psychiatric indications for abortion.

May I go back for a moment to the article that I referred to, so that in fairness to you and to the members of the Committee they will know what I was referring to. It is an article in a book entitled "Abortion and the Law" published by the press at Western Reserve University last year. The article to which I referred was by Reverend Robert F. Drinan, S. J., Dean and Professor of Family Law at the Boston College Law School. Now I do not want to give the impression that he is a supporter of abortion. All I was trying to clear up was the problem about abortion in the case of rape or incest. His reference to certain Canon Law may or may not be correct. I do not expect you to be an expert on that, but I do recommend to members of the Committee and those who are interested in this subject to take a look at this book which has articles by various medical, religious and legal authorities.

**The Chairman:** I think Dr. Beirne wanted to make a comment.

**Dr. Patrick Beirne, F.R.C.S. (St. Michael's Hospital, Toronto):** Perhaps I can clear up this point. He refers there to prevention of conception, not to abortion.

**Mr. Stanbury:** I do not know if there is any point in getting into a discussion of exactly what he says here, Mr. Chairman, but I suggest members of the Committee might like to read this. I presume it is available from libraries, because it does deal with this ques-

tion in a way somewhat different, I think, than was put forward here.

**Dr. Beirne:** There was some confusion in that debate at the time. I wanted to comment on that later. He states that any measures may be taken to prevent a pregnancy; "to prevent", not to discard or abort a pregnancy.

**Mr. Stanbury:** The obvious conclusion, then, is that something must be done between the time of conception and the time of implantation of the conceptus.

**Dr. Beirne:** Conception, not implantation.

**Mr. Stanbury:** I beg your pardon.

**Dr. Beirne:** Between the time it took for the act of rape or intercourse and conception.

**Mr. Stanbury:** I am sorry then, if you do not mind, Mr. Chairman, could you pursue this for a moment. When is the moment of conception?

**Dr. Quigley:** When the sperm and the ovum meet.

**Mr. Stanbury:** And when does that take place?

**Dr. Quigley:** It can be almost immediately, or it can be within 24 hours.

**Mr. Stanbury:** Then is it your interpretation of the Canon Law that any interruption must take place before that moment which may come either immediately or within 24 hours?

**Dr. Beirne:** If that is prevention of a pregnancy, that is true contraception and the word "contraception" means prevention.

**Mr. Stanbury:** That reference could not apply to an interruption...

**Dr. Beirne:** ... of a pregnancy which already exists.

**Mr. Stanbury:** ... which took place after conception, but before implantation.

**Dr. Beirne:** That is right; that 6-day interval.

**Mr. Stanbury:** So the only effective time when this Canon Law could apply would be before the moment which Dr. Quigley has described as being either immediate or within 24 hours.

**Dr. Quigley:** That is right.

**Mr. Stanbury:** I think this is something I would like to pursue with the experts on Canon Law.

**Dr. Quigley:** I may be guilty of creating some confusion in using the word "conceptus". I will discard that word if I may and use the word pregnancy. A pregnancy exists from the moment of conception.

**Mr. Stanbury:** Here again Dean Drinan uses the terms, I believe, differently in that he says that prevention of a pregnancy—the way I interpret it at least—can take place, I would think, after the moment of conception.

**Dr. Quigley:** He is not a biologist any more than a Canon lawyer is not a biologist.

**Mr. Stanbury:** I tried to avoid pursuing this with you because I think perhaps it is fruitless at the moment. I wanted to explain what the reference was that caused my question.

**The Chairman:** I think Mr. Calzonetti wants to comment on this.

**Mr. Vincent Calzonetti (Representing the Right to Life Committee, Burlington, Ontario):** Yes, Mr. Stanbury keeps repeating Canon Law. I am not a moral theologian and I may be severely criticized by my pastor when I get home, but to my knowledge there is nothing in the Catholic Church's Canon Law that mentions this subject at all. It has always been a matter of discipline; it is not Canon Law.

**Mr. Stanbury:** I will not argue with you about it, because I only know what I read about it and this is what I have read on this point.

I think it clear that Dr. Quigley is as he said he was approaching this as a doctor and not as a Catholic or as a moral theologian, because I think he does depart from what I understand to be the official doctrine of the Catholic Church that any abortion is wrong. You do apparently recognize that there may be medical indications and that perhaps the law should provide for these so that doctors will not be subject to prosecution if an expert medical abortion committee decides that there are such indications.

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**Dr. Quigley:** As a physician I would accept this, but as a Catholic I would not, but we are not talking about my Catholicity.

**Mr. Stanbury:** But you're trying to wear two hats.

**Dr. Quigley:** I personally would not do an abortion under any circumstances.

**Mr. Stanbury:** No; but you...

**Dr. Quigley:** But by the same token I would never criticize a colleague who, on sound medical grounds, feels that an abortion is indicated.

**Mr. Stanbury:** And you think the law should make provision for that sort of activity by your colleagues under the supervision of therapeutic abortion committees?

I do not want to go over the same ground, but if I understood you correctly, you seem to approve, as a doctor, the submission of the Canadian Medical Association—in part at least—and if I may read from their submission:

If continuation of the pregnancy will endanger the life or health of the pregnant female...

I will read it, but I will exclude it from my previous statement:

...or there is substantial risk that the child may be born with a grave mental or physical disability,...

The end of the exclusion.

...and the operation is performed by a duly qualified and licensed medical practitioner, in a hospital accredited by the Canadian Council on Hospital Accreditation after approval by a Therapeutic Abortion Committee of such hospital,...

If I correctly understand what you have said, you would approve that recommendation with the exception of the reference to a substantial risk with the child who may be born with a grave mental or physical disability.

**Dr. Quigley:** I could not accept that proviso, but as a physician I would accept the first paragraph of the CMA submission, not the second and I believe the third.

**Mr. Stanbury:** With the exclusion of the risk of disability of the child?

**Dr. Quigley:** And certainly the question of sexual crime.

**Mr. Stanbury:** Yes. In other words, then if I understand the proposed section of the bill

which Dr. Harley has just read, it would conform to your view as a doctor?

**Dr. Quigley:** As a physician, I think it becomes acceptable; yes.

**Mr. Stanbury:** I think that is all I want to ask for now, thank you.

**The Chairman:** Mrs. Rideout.

**Mrs. Rideout:** Dr. Quigley, when you introduced your panel you intrigued me by introducing Mr. and Mrs. Calzonetti and their genetic background. Perhaps this is a silly question, but what did you mean? I will explain why I am interested after you tell me what you meant.

**The Chairman:** Are you going to tell us about your genetic background?

**Mrs. Rideout:** No, but I am going to tell him why it intrigues me.

**Dr. Quigley:** Mrs. Calzonetti is—and I have her permission to divulge her medical facts—Rh negative and Mr. Calzonetti's homozygous is Rh positive. Mrs. Calzonetti is highly immunized by the Rh antigen.

**Mrs. Rideout:** Now the reason I was intrigued when you said that is because I have been tremendously interested in the work for retarded children. And about two months ago I took advantage of an opportunity to go to the Research Centre in London, Ontario and talk to some of the doctors there on genes and chromosomes and they really are making quite a breakthrough right now. I was wondering just how you would feel; I noticed you said to prevent the birth of a defective child. If medical knowledge increases as rapidly as it appears to right now, and if chromosome tests indicate a child would be born severely retarded or mentally defective, would you still have the same feeling as you have expressed in your brief, because we must anticipate these things; they are certainly...

**Dr. Quigley:** I respectfully submit that there are too many "ifs" in your question and I will deal with that situation when the time comes. I wonder if you—and I say this very kindly and respectfully—as a lay person are not expecting too much out of these researches and these studies? You not only have to question and wonder about the anticipation or prognostication of defects but their severity. One of the reasons for aborting mothers who have measles is the anticipation

of a defective child. There has been just published in the most recent number of *The Lancet*, which is one of the most respected medical journals in the world, a 25-year follow up on 50 defective children. And it is fascinating reading.

• 1240

**Mrs. Rideout:** Well, it was fascinating for me to see...

**Dr. Quigley:** ...see what happened to these 50 babies over a period of 25 years to date.

**Mr. Forrestall:** May I read the summary Mr. Chairman?

**The Chairman:** Just identify the dates.

**Dr. Quigley:** The journal—whoops! I picked that up in Malton yesterday.

**Mrs. Rideout:** Could you identify it?

**Dr. Quigley:** I looked all through the book and I cannot find out who the author is. The journal is *The Lancet*, volume 2 for 1957, number 7530. It was published on December 23, 1967. The article is entitled "A Twenty-Five-Year Follow-Up Of Congenital Rubella", it is on page 1347 and I will merely read the summary:

50 patients...

**The Chairman:** Quote.

**Dr. Quigley:** Oh yes, thank you. I quote:

50 patients with congenital rubella, born in New South Wales after the rubella epidemic which reached its peak in 1940, were assessed. 48 were deaf; 26 had typical cataracts of chorioretinopathy, and 2 had small undiagnosed lens opacities; 25 were below the tenth percentile for weight and/or height, and 20 had minor skeletal defects; 11 had congenital cardiovascular defects, 3 had systemic arterial hypertension, and 1 had undiagnosed diabetes mellitus. 6 of 22 males had undescended testes and 1 female had vaginal stenosis. Of 11 married patients, 7 had reproduced 8 children, of whom 7 were normal and 1 had congenital rubella. A striking feature was the good socioeconomic adjustment made by most patients. Mental deficiency was present in 5 but was severe in only 1; the majority seemed to be of average intelligence, and 2 had completed their education at a tertiary diploma level. At the time of interview only 4 were unem-

ployed, including 1 controlled schizophrenic.

That is the end of part of the quote and I might add that schizophrenia is not caused by rubella, so far as we know. Continuing the quote:

The developmental potential of many patients had been assessed erroneously during the pre-school period.

That is the end of the quotation. On the following page the author lists the occupations that these people are engaged in.

**Mrs. Rideout:** Well, I am grateful for that information Doctor, because I wanted to make sure...

**Dr. Quigley:** You would be able to get it in any good medical library; the University of Ottawa has one.

**Mrs. Rideout:** In case you might have some misunderstanding about my questions I want you to know I feel as you do; I do not believe we do have sufficient knowledge nor will we be sufficiently sure for some time that a foetus is defective and should not be born. Thank you, Mr. Chairman.

**The Chairman:** Mr. Enns?

**Mr. Enns:** Thank you. I was impressed that Doctor Quigley began by calling it a straightforward and factual presentation, and indeed it was. It had a presentation of clarity which we appreciate. And yet he admitted to personal views in response to questioning by Mr. Allmand, for example, even to the definition of pregnancy; not that he had a specific view on it, but that there could be an interpretation of pregnancy with a 6-day period. Am I wrong there?

**Dr. Quigley:** I did not admit that.

**Mr. Enns:** You made a statement, I believe, that this would depend on your definition of pregnancy, and the exchange was with Mr. Allmand.

**Dr. Quigley:** I said it might depend on your definition, not mine.

**Mr. Enns:** Oh, I see.

**The Chairman:** But that there was a medical difference of opinion.

**Dr. Quigley:** No, I did not say that either.

**Mr. Enns:** You said too, I believe, in your straightforward way, that you believed there

was human life at the point of conception. You do not make the distinction between actual life or potential life. You call it human life.

• 1245

**Dr. Quigley:** This is human life from the moment of conception. I am sorry, excuse my interruption.

**Mr. Enns:** No, that is fine. The other statement I believe you volunteered was that something like 10 per cent of pregnancies ended in spontaneous abortions.

Now, if these 10 per cent spontaneous abortions are actually the termination of human life is this... Am I still with you?

**Dr. Quigley:** Spontaneous termination of human life.

**Mr. Enns:** That is right.

**Dr. Quigley:** Yes.

**Mr. Enns:** Why does society not insist on some funeral rites in those instances?

**An hon. Member:** The Catholic Church does.

**Dr. Quigley:** No the Church does not.

**Mr. Enns:** It is not interested.

**Dr. Quigley:** Most of these you never see; you do not see the infant.

**Mr. Enns:** That is interesting, too. This is why I find it very hard to accept your statement that that is, in fact, human life. However, that is a broader moral question.

**Mr. Stanbury:** May I ask a supplementary question? I am sorry we seem to get into religious questions but I think the position people take on this subject depends on their religious convictions. Is it not a fact that it is common practice to baptize an unborn child?

**Dr. Quigley:** Unborn?

**Mr. Stanbury:** An unborn child; a foetus, in anticipation of its death.

**Dr. Quigley:** The foetus, now; not the placenta or anything like it, just the foetus. But not unborn; you mean stillborn, do you not?

**Mr. Stanbury:** Stillborn?

**Dr. Quigley:** Or even live born and immature; 1000 grams.

**Mr. Stanbury:** Again I am speaking from religious ignorance. I am sorry but I understood that there was a theory, at least at some stage of development of religious thought, that a child who died in the womb would be committed to purgatory if he were not baptized.

**Dr. Quigley:** Your question is a very good one, but we are in the field of theology and out of medicine.

**Mr. Stanbury:** It follows from Mr....

**Dr. Quigley:** Well, not necessarily. There is great confusion about this teaching. I think what you are going to talk about is Heaven, Hell and some place in between, and the teaching of the Catholic Church has been in the past that a person who has not been baptized cannot go to Heaven.

**Mr. Stanbury:** And that an unborn child is a person for that purpose.

**Dr. Quigley:** That is right; that is right. This is theological teaching; this is being most rigidly looked at and it was looked at in Toronto last summer at the theological conference that was held in August.

**Mr. Stanbury:** My only point was that the Church in some ways does look on the foetus as a person for religious purposes.

**Dr. Quigley:** In all ways.

**Mr. Enns:** Well, this seems to point out that Doctor Quigley wants to take a clinical, straightforward, factual view but human needs and human emotions just will not fit into clinical situations at all times. And even this very difficult question about times, you know, the fact that life really begins at the point of conception. I find it rather difficult to understand Dr. Quigley's claim to this absolute position when he admitted just now in reply to Mr. Stanbury that there is a lot of theological discussion over this very point.

**Dr. Quigley:** May I interrupt, Mr. Chairman? When we talk about the existence of life from the moment of conception, we are not talking theology, let us have it straight; we are talking molecular biology. I am not saying that life exists from the moment of conception because the Catholic church says so, or any other church says so. I am saying that life exists from the moment of conception because it can be biologically proven. Now, let us keep the record straight.

**Mr. Enns:** Yes, well, in that case there is life in a plant, I suppose, or in a tree; I suppose, that is biologically provable.

• 1250

**Dr. Quigley:** Yes, yes. It is true, I am sure, it is true. But can human beings give lives to plant life or human life?

**Mr. Enns:** No, that is potential human life.

**Dr. Quigley:** It is not potential.

**Mr. Enns:** However, let us not dwell on that.

**Mr. Stanbury:** There is a difference of opinion among scientists on that question, apart from theologians.

**Dr. Beirne:** No sir. No, there is not.

**Mr. Stanbury:** When I get my book back, I will refer you to a statement by a professor in your field in Columbia University who says there is no—you will excuse me, because I would like to have somebody's viewpoint on this.

**Mr. Enns:** That is my point about experts; you can quote both sides just as you can quote from the Bible, almost.

**Mr. Stanbury:** You state so absolutely that this is the case, and yet here is another gynaecologist, associate professor at Columbia University, who says that...

**The Chairman:** Would you identify him by name?

**Mr. Stanbury:** Yes, Dr. Robert E. Hall. Do you know him?

**Dr. Quigley:** I know his name.

**Mr. Stanbury:** If you will excuse me just a moment, I would like to put this quotation to you because it bothers me when you rely on a statement such as you just made. Referring to Dean Drinan's article, he says, in the intervening text:

...his arguments are predicated upon the assumption that the fetus is a human being, an assumption with which no non-Catholic scientist can agree. A potential human being, yes. A human being if allowed to incubate sufficiently long. But certainly not a human being at the time of abortion, three months after conception, when it is still far from capable of independent survival.

Now, it is difficult for us to accept statements such as the one you made as fact rather

than opinion when we find other medical authorities making contrary statements.

**Dr. Quigley:** May I quote another medical authority who is not a Catholic, so that this would seem to refute his statement that the only people who claim it is a human life, are of the Catholic church.

This is written by Edward L. Kessel, who is professor of biology at San Francisco University, and who is not Catholic.

**Mr. Stanbury:** It is quoted in your brief?

**Dr. Quigley:** Yes, that is right, and I have his entire article; that is my answer.

**Mr. Stanbury:** Does that not simply prove what has just been suggested by the previous questioner, that there is a difference of scientific opinion as well as a difference of theological opinion on this subject?

**Dr. Quigley:** No, I do not think so. Would you be willing to, instead of using the words "potential life", would you be willing to substitute the word "quantitative"?

**Mr. Stanbury:** Well, I did not use the term; Dr. Hall did. But I am trying to learn.

**Dr. Quigley:** If you wish to do this, look upon this life both quantitatively and qualitatively. Now, qualitatively, this is human life, because it is life, the product of the biological activity of two human beings. It is not a cocker spaniel, or a plant, it is a human life. Now, you go from there, and develop your argument, but quantitatively. It is not what we, sitting around this table, accept as human life. I would accept this, but then I would further submit to you that, quantitatively, my 17-year old daughter is not the human life that her mother is, she is still in the process of development, and there comes a time when development terminates and regression sets in, so that in terms of quantitative human life, the 70-year old, or 75-year old person sitting in a home for the aged is quantitatively not human life as we represent it, sitting around this table, but qualitatively, it is human life. And I think this is the crux of all this.

**Mr. Stanbury:** Yes, that is helpful. Then, do you equate human life before birth completely with human life after birth, qualitatively or quantitatively?

• 1255

**Dr. Quigley:** You cannot have human life after birth unless you have it before birth.

**Mr. Stanbury:** But you do equate it, then. Human life before birth has the same quantitative and qualitative importance, in your estimation, as does human life after birth?

**Dr. Quigley:** I would re-phrase that for my answer, if I may, that I would not determine the value of human life on quantitative standards, which is trying to be done.

**Mr. Stanbury:** But you accept the fact, in saying that it is trying to be done, that there are scientists as well as theologians who do not take the same view as you.

**Dr. Quigley:** No, I do not accept that fact. I think it is a matter of semantics.

**Mr. Enns:** So much of this discussion must be, I suppose. This being human rights year, it is interesting that you call yourselves the Right to Life Committee. Would you not agree that in addition to the right to life, a human being, or a child, also has a right to health, nutrition, and happiness, education, and love; are these not also rights that are pretty basic?

**Dr. Quigley:** I think this has been stated by the World Health Organization.

**Mr. Enns:** Yes, and is it not true that with the growing concern over the battered child syndrome, and the growing concern over juvenile delinquency and the whole problem of hippies, that there must surely be some indication that there are many unwanted persons around in this world?

**Dr. Quigley:** I would submit from my clinical experience that probably 99 per cent of pregnancies are unwanted—no, I should not use percentages, and I will retract it, if I may—that a majority of pregnancies at the moment of realization are for a greater or less period of time unwanted by their mother. The shock, the impact of being pregnant, many women do not want this pregnancy.

**Mr. Knowles:** The majority did you say?

**Dr. Quigley:** No, I think this has changed. I think this has probably changed with the contraceptive pills, and in my own private practice I have never seen so many pleasant, happy, willing pregnancies. The accidental pregnancy is very uncommon in my practice now.

**Mr. Enns:** We talk as though this must be beholden on all citizens when the law is liberalized, that everyone must go out and get an

abortion. Surely this is only a permissive thing and only those few who seek it will be able to do it within a legal framework. Are you really concerned that if the laws were liberalized everyone would request abortions? I do not see that this is really the danger to society or to mothers generally.

**Mr. Quigley:** Mr. Calzonetti would like to answer that, Mr. Chairman.

**Mr. Calzonetti:** Yes, if I may, please.

**The Chairman:** Of course.

**Mr. Calzonetti:** I have no right to legislatively try to impose my views on anyone else with respect to birth control, or with respect to divorce. But we are talking about the right to life, the most basic of all human rights, and surely this is the right from which all other rights flow. I am concerned in the type of society my five children are going to grow up in and it is my duty as a father and as a citizen to make this society the best type of society for them. I am concerned, if abortion is permissive, that this will have a detrimental effect on our society.

**Mr. Enns:** That is a matter of opinion, I suppose; how do we know?

**Mr. Calzonetti:** Yes, but there is no question about this; do you not agree with this?

**Mr. Enns:** I am concerned that children get beaten up so badly by parents that they die. This is medically supported in many hospitals. Why is this so?

**Dr. Quigley:** What you are stating is a gross exaggeration.

**Mr. Enns:** There is a publication here on the "battered child syndrome" which substantiates considerable basis for this kind of statement.

**Dr. Quigley:** Any figures?

**Mr. Enns:** I do not have ready reference to them.

**Dr. Quigley:** Are they not in there?

**Mr. Enns:** There are case histories.

**Dr. Quigley:** Let us talk about figures, not individual cases.

**Mr. Enns:** No, I am talking about the fact that a book like this was written. Why, because somebody thought this was a problem? Why do we have this juvenile delin-

quency if these are not indications of unwanted children. This is the kind of happy society that I want, too, for my four children.

**Mr. Calzonetti:** None of us have built-in certainties.

**Mr. Enns:** Exactly; neither do you, sir, if I may say so—none of us, you said.

**Mr. Calzonetti:** I said none of us have built in certainties.

**Mr. Enns:** Yes.

• 1300

**Mr. Calzonetti:** We all take our chances, do we not?

**Mr. Enns:** Yes exactly. Thank you, I have no further questions.

**Mr. Brand:** I have very few questions, actually, and some of them are for clarification. First of all, in a very few words, since we do not have much time, when you refer to medical indications are you referring in a medical sense, or are you including gynaecological, psychiatric, surgical, and other indications in the term "medical"?

**Dr. Quigley:** Strictly speaking, I think that psychiatric should be included in medical indications.

**Mr. Brand:** And all the others as well?

**Dr. Quigley:** But, there is a tendency to divorce the two, as you realize.

**Mr. Brand:** When you refer to medical grounds, you are taking in all the other branches?

**Dr. Quigley:** I am taking in psychiatry, gynaecology, and so on.

**Mr. Brand:** You made the statement that you would not do an abortion.

**Dr. Quigley:** Yes sir, that is correct.

**Mr. Brand:** Have you ever operated for ruptured tubal pregnancy?

**Dr. Quigley:** Yes, sir.

**Mr. Brand:** On page 13 of your brief you make the following statement criticizing the Committee for bringing in its first report and referring to us at the very end of the recommendations:

They appear to set up a new standard whereby one person's health becomes

more important than another person's life; alternatively, they implicitly affirm that the foetus is not human life and therefore does not have equal rights. The Right of Life Committee cannot accept either of these principles.

Now, when you take out the tube, clamp it off and remove the foetus therein, are you not destroying a life?

**Dr. Quigley:** Yes.

**Mr. Brand:** But it is acceptable in those circumstances?

**Dr. Quigley:** Yes.

**Mr. Brand:** So, on page 13 there seems to be a little...

**Dr. Quigley:** You may be destroying life. In most of the ectopics that I have done—and they have been considerable—I have rarely seen a foetus.

**Mr. Brand:** I believe you mentioned you had one that came to term in the abdomen.

**Dr. Quigley:** I did not have it; it is a case that I knew of when I was a student in Toronto General Hospital.

**Mr. Brand:** The point I am trying to make here, of course, is that there seems to be a double standard, in a sense. You criticized us for bringing in some recommendations because you think it is setting up two standards; you are basing one life against another, in effect.

**Dr. Quigley:** I do not think that you can say an ectopic is an illustration of this. I think there is a principle of double effect. Where your objective is to do good from which harm may come, but the greater thing that you achieve is good, therefore, the harmful thing becomes acceptable.

**Mr. Brand:** But in taking this course, it is then acceptable in such a circumstance as you have outlined to do away with the one in order to save the other? That is the point I want to make. Is that correct?

**Dr. Quigley:** Yes.

**Mr. Brand:** I must say, I wrote down a couple of things you said here, in exact form, because it seems you have come around to agreeing instead of criticizing the Committee and the new changes in the Omnibus Bill; you have come around to agreeing with them. You made the statement that you thought it

would be all right for a therapeutic abortion to be carried out when the life, or life expectancy, or health, of the mother is in serious jeopardy.

**Dr. Quigley:** I qualified the word "health".

**Mr. Brand:** I quoted you exactly; that is what you said. As long as the decision was made by a duly qualified abortion committee in an accredited hospital and if it constituted a serious jeopardy to the mother's health.

**Dr. Quigley:** I am presuming it would be the only form of health factor that a properly constituted abortion board would consider.

**Mr. Brand:** But this is exactly what the proposed changes in the Code suggest.

**Dr. Quigley:** At this moment; but, where are we going from here? This will not take care of the criminal abortionist; this will not take care of the woman who self-induces an abortion; there is nothing in the bill presently submitted to the House in respect to sexual crimes or the defective child. Is that going to come up in the next issue?

**Mr. Brand:** You are talking about something that is in the future. We are talking about the three bills that were before us, and the recommendations of the Committee which have already been made known. Are you, or are you not, in agreement with the present recommendations of this Committee and thereby the changes suggested in the Omnibus Bill?

**Dr. Quigley:** As a physician, I would accept those recommendations as they have been presented at this moment.

**Mr. Brand:** All right, thank you very much. That is one thing I wanted to know.

You do make the point in your brief, when you criticize this Committee for making any sort of a decision—although you agree with it medically—that there are not enough grounds to make any decisions in this regard. Is that correct?

**Dr. Quigley:** Yes, I said that.

• 1305

**Mr. Brand:** Yet, you make some pretty strong decisions yourself. Upon what grounds do you base your decisions if there are not enough for us to make them?

**Dr. Quigley:** To what decisions do you refer?

**Mr. Brand:** I will quote them to you if you like. Here is one:

That any broadening of the abortion laws may have most serious and deep-seated consequences for future generations.

On what do you base this statement? On what factual evidence do you base that statement?

**Dr. Quigley:** I think the answer to that is to be found in the Japanese experience where there is a liberalized abortion law with the resultant changes in the Japanese society which are well published. I think this is demonstrated by the fact that in Sweden, where abortion has been available more or less on demand, they are now retreating from this position and very carefully analyzing it. It is a substantiated fact in publications—I am sorry I cannot give you exact references—that many women today are going from Sweden to Poland to have the abortion done that they can no longer get done in Sweden. I think the experience of other countries is very important and must be looked at.

**Mr. Brand:** Then you would agree with the report of this Committee in which this point is made.

**Dr. Quigley:** What point is that?

**Mr. Brand:** Do you have it in front of you, Mr. Chairman?

**The Chairman:** What do you mean further study?

**Mr. Brand:** Yes.

**The Chairman:**

That the Committee on Health and Welfare continue its hearings into the subject of abortion, including the experience of other countries.

**Dr. Quigley:** Not only do we agree, but are asking for it.

**Mr. Brand:** Good; that is what I wanted to know.

You did mention in your preamble of the *obiter dicta*—that was for the lawyers—that the law should be rigidly enforced. How?

**Dr. Quigley:** You will have to correct me here if I am wrong. Is the enforcement of the Criminal Code, as it now stands, a provincial matter?

**The Chairman:** Yes.

**Dr. Quigley:** All right, then I am correct. I think there must be another authority above and beyond the abortion board that exists in a duly constituted form in a certified hospital. I think if the government is going to submit legislation to permit, for instance, what has already been submitted to the House, then I think it becomes incumbent upon the appropriate governmental body—provincial or whatever it may be—to see that even this is not being abused.

**Mr. Brand:** The Omnibus Bill does suggest that reports are to be made in writing to the minister of health of each province for any action that they may deem fit, which may cover, perhaps, the point you have in mind.

**Dr. Quigley:** Yes.

**Mr. Brand:** So, you would agree with that provision of the Omnibus Bill?

**Dr. Quigley:** Yes, I think this is a built-in safeguard that is very important and necessary.

**Mr. Brand:** I have one last question. Are there still indications for therapeutic abortion today?

**Dr. Quigley:** Medically?

**Mr. Brand:** Yes, medically.

**Dr. Quigley:** With the life of the mother at stake?

**Mr. Brand:** I just said, "indications," regardless of what they may be. Are there medical indications, in your opinion as a gynaecologist, for a therapeutic abortion?

**Dr. Quigley:** Rare; but yes, I am sure they come up from time to time.

**Mr. Brand:** Thank you very much.

**Mr. Knowles:** Mr. Chairman, it is late and it has all been said, but if I may say so, I think that Dr. Quigley has been very helpful to us, perhaps in a way that he did not intend. I am sure you will not regard it unfair of me, Dr. Quigley, to say that you have impressed us as being very firm in your views; you even referred to yourself as dogmatic at one point. But, I think precisely because you are so firm, it is interesting and helpful to us that you now seem to support the position the Committee has taken and the position represented in Mr. Trudeau's bill. You say you want the ambiguity cleared up?

**Dr. Quigley:** That is right, sir.

**Mr. Knowles:** You want the law to be clear as to when abortions may be performed?

**Dr. Quigley:** Yes, sir.

**Mr. Knowles:** You want them to be for medical reasons and you want the decision to be made not by one person, but by a committee or a group?

**Dr. Quigley:** A group of competent citizens.

• 1310

**Mr. Knowles:** And when the provision in Criminal Code amendment was read to you, you said, "that is all right". You are only concerned about what might come next?

**Dr. Quigley:** That is right, sir.

**Mr. Knowles:** By the same token we might say to you, Dr. Quigley, you have gone so far today, but a year from now you might go further. The fact is that this is all that is before Parliament at the moment and if I know Parliament—I have been around here a bit—I do not think it is going to be amended in the liberal direction; I think if it is amended at all, it is likely to be tightened up.

**Dr. Quigley:** I sincerely hope that you are correct.

**Mr. Knowles:** Therefore, I hope you will forgive me for saying, whether intended or not, I think you have been most helpful to us. You have come as a person who philosophically and medically does not believe in abortion and yet you admit that there are occasional medical indications where you would say that it is all right provided there are the appropriate medical safeguards and provided the decision is made by competent medical people. I think this is very helpful.

**Dr. Quigley:** I would like to answer your question other than by just a "yes" or "no".

I tried to make my position clear in that I, personally, look at the abortion problem and the abortion question from a twofold point of view. From the point of view, first of all, as a Roman Catholic and, as such an individual I, personally, will not and would not perform an abortion irrespective of the so-called "indications". This is my own personal morality.

Looking at it from the point of view of a qualified physician, I fully accept that the abortion problem in this country today is a very serious one; it must be met and it must be dealt with in the manner in which this Committee is dealing with it. I admit this as a

physician and I think I would go further and perhaps tie up a lot of comments. I would accept, as a physician, what was presented by the Hon. Minister on December 21. I would accept this, as a physician.

**Mr. Stanbury:** May I ask a supplementary question? Does this represent the view of the group?

**Mr. Knowles:** Perhaps my supplementary is the same one. Certainly, I appreciate very strongly the position you now have stated.

**Dr. Quigley:** I have no desire to impose my moral views on you or anybody else.

**Mr. Knowles:** You do impose on yourself, as a physician, the views that you hold as a person?

**Dr. Quigley:** Yes, sir.

**Mr. Knowles:** You have stated clearly that you would not perform an abortion even for medical indications and you have told us that St. Joseph's Hospital in Hamilton does not perform abortions. What happens, in your experience as a medical man or in your hospital's experience, when a person comes to see you and an abortion seems to be indicated? Do you refer this person to some other doctor or to some other hospital?

**Dr. Quigley:** Yes, sir. I must point out, perhaps because it will be helpful, that most questions as to whether or not a patient should be aborted is a question that arises, as a general rule, not in hospital, but in a private physician's office. The hospital rarely faces the decision of, "what are we going to do with this patient in our hospital at this moment?" The private physician in his office in our community knows that if a patient of his is to have a therapeutic abortion approved by the abortion committee of the General Hospital in the city where this is done, he must submit that patient—he may do all his work at St. Joseph's, for instance—to the abortion committee of the Henderson General Hospital and the abortion, if approved by their board, will be done in the Henderson General Hospital. That takes care of most of the physicians and our hospital problem.

We did have an instance recently where a patient in hospital—a 14 year old girl—was judged to be a candidate for an abortion. She was already in hospital on our psychiatric service.

**Mr. Knowles:** In St. Joseph's Hospital?

**Dr. Quigley:** Yes, sir, in St. Joseph's Hospital. It was finally agreed, after due consultation, that she should be aborted. She was transferred.

**Mr. Brand:** On psychiatric grounds?

**Dr. Quigley:** On what the psychiatrist referred to as "humanistic grounds", whatever they are.

**Mr. Knowles:** But the decision was made at St. Joseph's Hospital that she was a candidate for abortion?

• 1315

**Dr. Quigley:** The decision was made by her medical attendant, not by the hospital. A hospital is not engaged in the practice of medicine. Her medical attendant made this decision. In my personal instance, I know if I were faced with the situation I would be able to determine pretty accurately whether or not my patient, sitting opposite me, could get a therapeutic abortion or should be a candidate for one. In such an instance I would explain my own personal position and would refer her to another physician of her choice, or would prefer to refer her to a physician of my choice. My choice of physician would almost invariably be the Professor and Chairman of the Department at McMaster University.

**Mr. Knowles:** Of course, you would make this reference only if you believed that the other person would make the decision.

**Dr. Quigley:** That is right, or even if there were a question about it, in order that this patient would know that there was no prejudice.

**Mr. Knowles:** You would give her the benefit of the doubt?

**Dr. Quigley:** I would give her the benefit of the doubt, and ask the Professor and Chairman of the Department to see her or to assign a member of his staff to see her.

**Mr. Knowles:** I thought you were a witness against us, but you are our witness, doctor.

**Dr. Quigley:** I am a witness most vehemently against abortion on demand, abortion for sexual crimes and abortion for mental retardation or genetic factors, which is still a possibility. What I would like to see, as a physician, is the abortion law stopped right where it is now, as it has been submitted to the House. I would like to see that.

**Mr. Knowles:** But you would rather see Mr. Trudeau's amendment passed than not?

**Dr. Quigley:** I think it has to be passed for clarification and correction of the ambiguity and contradictions which now exist in it. Something has to be passed.

**Mr. Knowles:** I rest.

**Mr. Stanbury:** Mr. Chairman, could I ask here—in case there are other questions, just so this can be cleared—do you speak for your group in saying that?

**Dr. Quigley:** Thank you for asking that question and I will let them answer.

**Mr. Calzonetti:** Mr. Stanbury, I do not have the problem that Dr. Quigley has. I am not a physician. If I were to write this law—and here I am a little guy in Burlington—the way I would word it would be: "it would be likely to endanger her life or put in jeopardy her life expectancy." I would not mention "health" at all because, as far as I am concerned, my personal opinion is that this is what should be entered.

**Mr. Stanbury:** You appreciate that it is a problem with which doctors probably have the most ability to formulate the rules?

**Mr. Calzonetti:** Yes, there is no question about that. You are talking about doctors and we are talking about therapeutic abortion. This is being done now.

**Mr. Chatterton:** May I ask a supplementary to that particular point, Mr. Chairman?

**Mr. Knowles:** Mr. Chairman, Dr. Brand and I are only leaving because we have another committee to attend.

**Mr. Chatterton:** In paragraph 1 of your summary conclusions, you say:

That life is the fundamental and basic human right from which all other rights spring.

Yet, Dr. Quigley, you said on medical grounds if the life expectancy of a mother may be affected. In other words, the life expectancy might be reduced from 50 to 49 years and on medical grounds that abortion should be performed, and yet the life of the foetus is definitely destroyed but you would destroy the life of the foetus for the sake of an extra year or less than a year for the mother.

**Dr. Quigley:** I did not say that I would do it.

**Mr. Chatterton:** You would permit it on medical grounds.

**Dr. Quigley:** No. I did not even...

**Mr. Chatterton:** You said its life expectancy.

#### • 1320

**Dr. Quigley:** I would like you not to pay too much attention to the question of the year. This is a question for clinicians to decide; more than one clinician. In other words, do not take my illustration too literally. One of the great fears, and whether this Committee realizes it or not I think this is an important thing to face, that if one grants abortion on some of the indications that some of the groups are asking for, abortion to drive the criminal abortionists out of business; abortion to prevent the unwanted child; the woman who cannot afford a child, the marriage, rather, that cannot afford another child; do you realize that what you are doing is just substituting an abortion program for a failed contraception and sterilization program? What you are doing is destroying pregnancies that should never have been allowed to originate in the first place. This is it. Now, the question you have got to ask yourself—this is a great problem and no one will deny it—but, does this end justify the means? That some of these pregnancies are tragic is beyond any question of a doubt. There is nothing more tragic than the child who has been raped and who is pregnant; rare though this is, and I think this is important, pregnancy following rape is very rare. However, what you are going to do is substitute the willful and intended destruction of human life for a failed program of education, contraception and sterilization; a sense of values.

**The Chairman:** I think Dr. Beirne wanted to make a comment.

**Dr. Beirne:** I will be very brief. First I would like to clarify—Dr. Brand has left but he discussed ectopic I think really there is no moral medical, ethical or other kind of a problem in the case of any ectopic pregnancy. What we are discussing is direct abortion if a woman has a medical or a surgical condition which needs treatment. If your treatment results in an abortion, that is too bad. There is no conflict in this kind of a situation so an ectopic pregnancy really is just simply confounding the issue.

**Mr. Chatterton:** What about an abortion board?

**Dr. Beirne:** There is no abortion board that needs to sit on this? There is no canon law, there is nothing that has anything to do with this situation. It is like taking out an acute appendix. If a girl has a tubal pregnancy that is bleeding you treat the haemorrhage. If, in the course of your treatment, as she inevitably will, she aborts, this is fine. It is too bad, but it is simply confusing the discussion, I think, to bring in this question of tubal pregnancy.

**The Chairman:** I might just mention for the benefit of people who are not physicians that the risk of an ectopic pregnancy is that the patient may bleed to death if you do not surgically correct the condition.

**Dr. Beirne:** And it is perfectly all right to stop the haemorrhage. It is all right there, you are treating a medical or a surgical condition and the abortion is a consequence of this. It is a consequence of your treatment but you are not aborting the girl to cure her. Do I make the point clear?

**Mr. Chatterton:** Yes.

**Dr. Quigley:** May I attempt to further clarify it in the light of previous minutes. One of the delegations included a physician by the name of Dr. Tallon and Dr. Brand asked this Dr. Tallon if he would abort a woman with an in-situ carcinoma of the cervix. Now, medically, gynaecologically, there is absolutely no indication for aborting a woman has an in-situ cancer of the cervix. Her pregnancy may be allowed to progress safely to term. She does not even become a candidate for a caesarean section. She can be delivered per vagina in spite of her cancer and this is substantiated in all the medical literature. Now, this gynaecologist, however, who has made this diagnosis may wish to try and excise this cancer by what is called a cone. He is perfectly legitimate to go ahead; he may perfectly legitimately go ahead and do this. If as a result of his surgical procedures that woman should abort, this is unfortunate but this is not direct abortion. He is not aborting that woman because she has cancer of the cervix. Does this help?

• 1325

**Mr. Brown:** Mr. Chairman, just one last question if I may. In answer to Dr. Brand's questioning of Dr. Quigley stated that he was actually—he gave the impression that he was—content with the suggested amendments in the Omnibus Bill that is being presented to Parliament. But in that Omnibus Bill there is a clause, if I recall correctly, setting out the

number of persons who will sit on an abortion board.

**The Chairman:** This is not less than three.

**Mr. Brown:** Not less than three and I wanted to have Dr. Quigley clarify that because I understood him to say that it should not be less than five.

**Dr. Quigley:** No, sir. I said that in the community in which I live there are five, with other men available should they be needed. For instance, there is no point in having a surgeon sit on an abortion board if we are talking about a psychiatric indication for abortion; so that as it is constituted in our own community, there is a chairman and there are four permanent members with other members available should their specialized knowledge be to the advantage of the abortion board in arriving at a correct conclusion.

**The Chairman:** Yes, I quote it right...

... comprised of not less than three members each of whom is a qualified medical practitioner...

**Dr. Quigley:** There is evidence; there is information and literature or there is an opinion in the literature that not only should it be five but this article further suggests the composition of that and stated that it should comprise two obstetricians, two internists and one psychiatrist with surgeons, et cetera, being available should they be needed.

**The Chairman:** Mr. Allmand?

**Mr. Allmand:** This is just for clarification. At the beginning of the meeting I referred to a doctor from University of Notre Dame and I did not have his name or the name of the bulletin but I went upstairs and got it and I think I should give it to you. This was an article written in the *National Catholic Reporter* of April 20, 1966, by Dr. Rudolph H. Ehrensing who was an undergraduate at University of Notre Dame but who obtained his medical degree at Cornell University Medical College and who had been the President of the Young Christian Students at Notre Dame. And he has written articles on these subjects in *Perspectives* and for the *Proceedings of the Society for Experimental Biology and Medicine* and it is his opinion in this article that to prevent implantation—of whatever it is at that time it—is contraceptive and not abortive and he says that a survey—I do not think we should argue this but just to clarify—he says that a survey was made by a

Dr. Mary S. Calderone and that among doctors throughout the world and she said that the majority of the clinicians felt that this procedure was abortion but the majority of the physiologists considered it contraceptive. This man also says that the definition of abortion by moral theologians in the Catholic Church could be interpreted to allow an abortion or whatever you want to call it: to allow this procedure to take place, prevention of the implantation, depending upon how you would interpret the church's or the moral theologian's definition of abortion. I know that maybe you and others would disagree with this doctor, but I merely put it forward because it is the opinion of one Catholic doctor who seems to have some credentials and the story was written in *The National Catholic Reporter* of Kansas City, Missouri.

**Dr. Quigley:** Is he a clinician or is he a physiologist? I am a clinician.

**Mr. Allmand:** His medical degree is from Cornell University Medical College. He has written on moral questions for *Perspective* magazine. He has published a research paper in *Proceedings of the Society for Experimental Biology and Medicine* and he is presently on the staff of the University of Virginia Hospital, Charlottesville, Virginia. It does not say whether he is a clinician or a physiologist. I must say I do not know the difference between the two.

**Dr. Quigley:** We would be here until tomorrow if we tried to define it.

**Mr. Allmand:** That is just for clarification Mr. Chairman.

**The Chairman:** One is theoretical and the other one is practical I think; one looks after patients.

**Mr. Allmand:** The clinician is the practical man and the physiologist is the theoretical man.

**The Chairman:** Do you have a comment, Dr. Beirne?

• 1330

**Dr. Beirne:** I would like to make one or two more comments if I may, I will be very brief.

In discussion of definition of help there are, if you will pardon the expression, two conservative definitions and liberal definitions on help. The conservative or negative definition is absence of disease; the positive or liberal

definition goes on to include well being, absence of stress, and this has been extended to such things as nutrition, housing, education and so on. Now, this is the danger: which interpretation are we going to put on it? Just as individuals may have liberal or conservative views on the definition of help, so also may abortion boards. And, it does not take long for the community at large to know who are the liberal and who are the conservative abortion boards.

In New York city there are two hospitals both with abortion boards within a few blocks of each other. In one hospital there is one therapeutic abortion per 16,000 deliveries. In the other hospital there is one therapeutic abortion per 20 deliveries. So boards do not guarantee the interpretation we want to be taken of what we feel is for the common good for our people. A board is not good enough, it has to be spelled out more clearly, I think.

**Mr. Enns:** Who is to rule, the liberals or the conservatives?

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, I just want to ask one more question because of the remarks of Dr. Beirne and Dr. Quigley. I think if they have gone through—and I have no doubt they have—the proceedings of this Committee, they will see that not only have a great many witnesses, but we on this Committee ourselves, have come to believe that birth control and contraceptives are the first line of defence. We are not thinking at all in terms of abortion legislation or abortions being a wholesale sort of thing. As we have gone on with our studies, we have become more and more convinced of the need for widespread birth control knowledge and contraceptives, and we feel that the number of abortions would be very, very substantially reduced if the knowledge of birth control and contraceptives could be made more widespread.

**Mr. Calzone:** Mr. Chairman, may I ask Mrs. MacInnis a question?

This is a quote I heard attributed to you to the effect that I will take one slice now and the rest later. Now, is this a true quote?

**Mrs. MacInnis (Vancouver-Kingsway):** This is my general philosophy in life. Now, I do not know how it is applied in this particular case.

**Mr. Calzonetti:** It was applied to the widening of divorce.

**Mrs. MacInnis (Vancouver-Kingsway):** This is my general philosophy because I am a Social Democrat and I know you do not get everything by world revolution and all that sort of thing. You get it bit, by bit, by bit, that is how we have got any improvements as human beings ever since we were human beings.

**Mr. Brown:** You are a pretty good liberal!

**Mr. Calzonetti:** Am I to assume that, Mrs. MacInnis, that your philosophy would apply to the widening of the abortion laws?

**Mrs. MacInnis (Vancouver-Kingsway):** If you mean that I think we should have wide spread abortion on demand, no, I do not.

**Dr. Quigley:** Then not at the moment, but this will be the second slice you will ask for?

**Mrs. MacInnis (Vancouver-Kingsway):** No, there are an awful lot of slices...

**Mr. Cowan:** The next slice is infanticide, doctor.

**Mr. Chatterton:** Is not a woman's body her own?

**Mrs. MacInnis (Vancouver-Kingsway):** I beg your pardon?

**Mr. Chatterton:** Is not a woman's body her own?

**Mrs. MacInnis (Vancouver-Kingsway):** Well I have just been told it is utter nonsense. I believe that a woman's body is her own too,

now the question of responsibility on how she uses it, that is a horse of another colour.

**The Chairman:** Ladies and gentlemen, I think the questioning between Committee members is unnecessary at this stage.

**Mr. Stanbury:** I do not think Mrs. MacInnis should be misquoted though, she should have the opportunity of making...

**The Chairman:** I think she made her point.

**Mr. Stanbury:** ...reference to the fact that she did not ask for a slice, she said: if I want a loaf of bread...

**The Chairman:** Are you going to quote her now?

**Mr. Stanbury:** If you would like me to, just to be fair to her, as recorded on page 8 of the proceedings she said:

I have learned all my life, Mr. Stanbury, if I want a loaf of bread to take half a loaf if I cannot get a whole loaf and if I cannot get that, to take a few crumbs, knowing that each attempt will strengthen me to get a little more of the bread later on.

It was not a slice at all.

**The Chairman:** Are there any more questions of the witnesses?

I would like to thank The Right to Life Committee and all of their members for coming before the Committee and participating in a very frank and full discussion on this subject. Thank you very much.

The meeting is now adjourned.

APPENDIX "CC"

ABORTIONS

A study of 120 abortion cases investigated by officers of the Morality Bureau, Metropolitan Toronto Police, during the *past three years*, reveals that the *modus operandi* of abortionists can be broken down into five categories, namely:

<i>Modus Operandi</i>	<i>Cases</i>	<i>Deaths</i>	
Injection of Fluids .....	87	18	
Drugs .....	2	0	
Instruments .....	10	0	
Miscellaneous .....	5	0	
Not known .....	16	1	

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<i>Injection of Fluids</i>	<i>Cases</i>	<i>Deaths</i>	<i>Items Used</i>
By Higginson Syringes .	66 )		Soaps
	)		Oils
By Bulb Syringes .....	)	18	Turpentine
Bay Assembly Syringes .	)		Lye
Hypodermic Syringes ...	21 )		Disinfectants

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<i>Drugs</i>	<i>Cases</i>	<i>Deaths</i>	<i>Items Used</i>
Orally or by Hypodermic			Ergonovine
Injection .....	2	0	Posterior Pituitary
			Hormones
			Quinine

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<i>Instruments</i>	<i>Cases</i>	<i>Deaths</i>	<i>Items Used</i>
Used mostly by medical			Uterine Dilators
practitioners, nurses,			Vaginal Speculum
persons licensed under			Uterine Curettes
the Drugless Practition-			Uterine Sounds
ers Act, or persons with			Tenaculum Forceps
a little medical knowl-			Knitting Needles
edge .....	10	0	Home-made Sounds
			Coat Hangers
			Spoons
			Hair Dressing Combs

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<i>Miscellaneous</i>	<i>Cases</i>	<i>Deaths</i>	<i>Items Used</i>
Uncommon methods used by lay abortionists ....	5	0	Slippery Elm Bark Rubber Catheters Plastic Tubes

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<i>Not Known</i>	<i>Cases</i>	<i>Deaths</i>	<i>Items Used</i>
Interference with the pregnancy but method used could not be dis- covered or the female refused to give informa- tion .....	16	1	There are many items and solutions which can and have been used to in- duce miscarriage, such as strong soaps, deter- gents, metal and plastic instruments.

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Abortionists come within the following categories:

<i>Abortionists</i>	<i>Cases</i>	<i>Deaths</i>	<i>Items Used</i>
Medical practitioners ...	9	0	Instruments
Persons having some med- ical knowledge .....	4	0	Drugs by injection
Lay abortionists .....	107	19	Instruments Drugs by injection Douche by syringe, instruments (not sur- gical), slippery elm, catheters.

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December 15th, 1967.

## APPENDIX "DD"

DOMINION BUREAU OF STATISTICS  
BUREAU FÉDÉRAL DE LA STATISTIQUE

Ottawa, Canada

December 8, 1967.

Mr. Harry C. Harley, M.P.,  
Chairman of the Standing Committee  
on Health and Welfare,  
House of Commons,  
Ottawa, Ontario.

Dear Mr. Harley:

Re: Maternal Deaths

As requested in your letter of December 1 attached is an extract of a table from our "Vital Statistics" report showing the number of "maternal deaths" in Canada, by province, since 1921.

These relate to what are internationally referred to as "maternal deaths", described in

medical circles as "obstetrical deaths". They include all deaths resulting from "complications of pregnancy, childbirth and puerperium" as set out in the WHO International Classification of Diseases, 7th (1955) Revision.

We do not routinely compile data on "deaths associated with pregnancy". However we did prepare such a tabulation for the one year 1964 and a copy of the results are attached, distributed by province, and by age for Canada. As you will note these relate to deaths of women reported as occurring either during pregnancy or within 90 days following delivery which were due to *non-obstetrical causes*, and additional to the true maternal deaths due to obstetrical causes referred to above.

Yours very truly,  
Walter E. Duffett,  
Dominion Statistician.

MATERNAL DEATHS  
MORTALITÉ MATERNELLE

TABLE D20—MATERNAL DEATHS AND RATES, CANADA AND PROVINCES, 1921-1966  
TABLEAU D20—MORTALITÉ MATERNELLE ET TAUX, CANADA ET PROVINCES, 1921-1966

Year—Année	Canada	Nfld.	P.E.I.	N.S.	N.B.	Qué.	Ont.	Man.	Sask.	Alta.	B.C.	Yukon	N.W.T.
		T.-N.	Î.P.-É.	N.-É.						Alb.	C.-B.		T.N.-O.
Deaths—Décès													
Average—Moyenne													
1921-1925.....	1,276	50	9	70	51	338	386	87	127	97	61	—	2
1926-1930.....	1,374	33	8	61	64	433	398	81	126	105	63	—	1
1931-1935.....	1,188	34	10	59	57	405	344	60	91	75	53	—	1
1936.....	1,281	46	11	51	69	450	355	70	86	91	50	—	2
1937.....	1,107	34	12	35	39	397	319	55	86	77	51	—	2
1938.....	1,018	45	5	51	52	408	251	39	46	68	48	2	3
1939.....	1,014	44	16	49	54	369	276	47	59	59	38	1	2
1940.....	1,014	33	6	54	56	377	254	57	62	69	43	—	3
1941.....	960	57	6	49	43	386	219	46	58	54	40	1	1
1942.....	858	39	10	41	57	314	206	40	62	43	45	—	1
1943.....	835	33	9	57	41	315	189	40	48	52	47	1	3
1944.....	816	38	12	33	43	318	198	49	42	31	50	1	1
1945.....	690	27	6	24	25	256	171	31	49	48	50	—	3
1946.....	623	27	6	28	34	229	160	32	36	32	38	—	1
1947.....	588	29	6	20	25	259	129	23	38	22	32	—	5
1948.....	538	22	3	19	23	232	125	28	22	29	29	2	4
1949.....	540	24	1	20	18	234	134	25	27	25	28	—	4
1950.....	423	21	3	21	15	182	97	14	21	19	27	—	3
1951.....	407	25	1	12	11	180	97	22	22	15	20	—	2
1952.....	376	25	4	14	19	155	100	11	13	15	18	—	2
1953.....	327	19	2	14	16	136	69	16	13	21	18	1	2
1954.....	316	22	2	10	12	140	69	11	22	11	13	—	4
1955.....	337	29	2	13	20	133	81	15	11	15	16	—	2
1956.....	278	23	1	6	9	125	70	6	8	14	13	—	3
1957.....	255	20	2	13	5	115	55	10	5	12	15	1	2
1958.....	263	14	1	14	8	95	70	12	13	17	15	—	4
1959.....	263	12	—	8	6	104	73	14	10	14	17	—	5
1960.....	215	16	—	4	10	85	55	9	10	7	19	—	—
1961.....	219	11	1	4	8	89	67	13	6	9	10	1	—
1962.....	191	5	—	9	7	69	54	7	5	16	17	1	1
1963.....	165	7	3	2	6	61	46	10	7	11	11	—	1
1964.....	137	6	—	9	10	50	43	4	5	8	2	—	—
1965.....	135	5	—	9	5	42	44	6	9	4	10	—	1
1966.....	135	2	2	2	4	58	36	2	9	6	13	—	1

Rate per 10,000 live births—Taux pour 10,000 naissances vivantes

Average—Moyenne													
1921-1925.....	50.1	71.0	43.8	57.8	46.0	38.8	54.1	52.7	58.9	62.6	59.7	..	..
1926-1930.....	56.4	48.8	47.3	55.4	62.2	52.4	57.9	56.3	59.1	65.7	60.8	—	98.2
1931-1935.....	50.5	50.3	53.0	51.0	54.2	51.3	53.0	43.5	44.6	45.2	53.4	41.0	42.1
1936.....	56.2	62.7	55.6	43.2	65.6	59.8	56.8	54.5	45.0	57.6	47.3	—	87.3
1937.....	48.6	46.3	57.3	30.2	36.9	52.5	51.7	42.7	46.1	48.4	45.2	—	94.8
1938.....	42.9	61.3	25.3	41.7	45.4	52.2	38.3	28.9	25.2	42.8	35.8	263.2	132.7
1939.....	42.6	53.5	75.2	41.4	47.8	46.3	43.0	34.6	32.7	35.8	30.7	158.7	85.5
1940.....	40.1	41.6	28.6	42.0	47.9	45.0	37.1	38.6	32.1	39.7	31.1	—	125.0
1941.....	36.4	68.8	29.3	35.2	35.0	43.3	30.3	31.1	31.4	31.2	26.6	138.9	31.6
1942.....	30.5	44.4	46.8	26.8	45.0	33.0	26.3	25.5	34.1	23.5	26.8	—	27.1
1943.....	28.5	37.2	41.5	37.0	31.3	31.9	23.3	24.4	25.9	27.0	25.0	101.0	74.4
1944.....	27.8	40.9	52.5	21.2	31.9	31.1	25.4	30.6	23.2	16.0	26.3	73.5	31.6
1945.....	23.0	24.1	26.6	15.5	18.3	24.5	21.7	19.1	25.9	24.1	26.5	—	58.7
1946.....	18.1	22.4	21.5	15.6	20.9	20.6	16.4	17.0	16.8	14.4	16.8	—	16.9
1947.....	15.8	22.9	20.1	10.4	14.1	22.4	11.9	11.3	16.3	8.9	12.2	—	80.0
1948.....	15.0	18.9	10.6	10.7	13.3	20.2	12.0	14.8	10.2	12.0	11.2	73.0	62.0
1949.....	14.7	19.5	3.5	11.3	10.8	20.0	12.6	13.0	12.5	10.0	10.3	—	62.1
1950.....	11.4	16.0	10.4	12.2	9.2	15.3	8.9	7.3	9.7	7.4	10.0	—	48.2
1951.....	10.7	21.3	3.8	7.0	6.8	14.9	8.4	11.0	10.1	5.6	7.1	—	30.8
1952.....	9.3	19.9	14.8	7.8	11.4	12.3	8.1	5.3	5.8	5.2	6.0	—	31.2
1953.....	7.8	14.8	7.3	7.7	9.7	10.6	5.3	7.5	5.5	6.7	5.7	26.1	29.6
1954.....	7.2	16.1	7.3	5.3	7.2	10.5	5.1	4.9	8.8	3.3	3.9	—	63.4
1955.....	7.6	19.7	7.2	6.9	12.0	10.0	5.8	6.7	4.4	4.4	4.7	—	27.3
1956.....	6.2	15.8	3.8	3.1	5.4	9.2	4.9	2.7	3.3	4.0	3.6	—	38.2
1957.....	5.4	13.1	7.5	6.7	2.9	8.1	3.6	4.5	2.1	3.4	3.9	20.2	22.2
1958.....	5.6	9.4	3.9	7.4	4.9	6.7	4.6	5.5	5.5	4.6	3.8	—	42.3
1959.....	5.5	8.1	—	4.2	3.6	7.3	4.6	6.1	4.1	3.7	4.3	—	50.5
1960.....	4.5	10.5	—	2.1	6.1	6.2	3.5	3.9	4.2	1.8	4.7	—	—
1961.....	4.6	7.1	3.5	2.1	4.8	6.5	4.2	5.6	2.5	2.3	2.6	17.9	—
1962.....	4.1	3.3	—	4.6	4.3	5.1	3.5	3.1	2.1	4.1	4.5	18.3	8.8
1963.....	3.5	4.5	10.2	1.1	3.8	4.6	3.0	4.4	3.0	2.9	2.9	—	8.6
1964.....	3.0	4.1	—	4.9	6.5	3.8	2.8	1.8	2.2	2.2	0.6	—	—
1965.....	3.2	3.4	—	5.4	3.5	3.5	3.1	3.0	4.4	1.2	3.0	—	8.4
1966.....	3.5	1.4	9.1	1.3	3.1	5.3	2.7	1.1	4.7	2.0	4.0	—	8.6

MATERNAL DEATHS

TABLE D 21—MATERNAL DEATHS AND RATES FOR SELECTED CAUSES, CANADA AND PROVINCES, 1965

Int'l list No.	Cause of death (7th Rev.)	Canada	Nfld. T.-N.	P.E.I. I. P.-É.	N.S. N.-É.	N.B.	Qué.
Number							
640, 641	Infections of the genito-urinary tract during pregnancy.....	2	—	—	—	—	1
642	Toxaemias of pregnancy.....	21	—	—	2	—	5
643	Placenta praevia noted before delivery....	1	—	—	—	—	—
644	Other haemorrhage of pregnancy.....	2	—	—	—	—	—
645	Ectopic pregnancy.....	4	—	—	—	—	2
646-649	Other complications of pregnancy.....	12	1	—	2	—	1
650, 652	Abortion without mention of sepsis.....	4	—	—	—	—	2
651	Abortion with sepsis.....	10	—	—	—	—	—
660	Delivery without complication.....	—	—	—	—	—	—
670	Delivery complicated by placenta praevia or antepartum haemorrhage.....	5	1	—	—	—	—
671	Delivery complicated by retained placenta	5	—	—	—	—	1
672	Delivery complicated by other postpartum haemorrhage.....	11	1	—	—	—	7
673, 674	Delivery complicated by abnormality of bony pelvis or malposition of foetus.....	4	1	—	—	2	—
675	Delivery complicated by prolonged labour of other origin.....	—	—	—	—	—	—
676, 677	Delivery with laceration or other trauma	13	—	—	1	1	7
678	Delivery with other complications of childbirth.....	5	—	—	—	—	2
680	Puerperal urinary infection without other sepsis.....	—	—	—	—	—	—
681	Sepsis of childbirth and the puerperium....	7	—	—	1	1	3
682-684	Puerperal phlebitis, thrombosis, pyrexia, pulmonary embolism.....	17	1	—	—	—	6
685, 686	Puerperal eclampsia and toxaemia.....	5	—	—	1	—	3
687-689	Other and unspecified complications of the puerperium.....	7	—	—	2	1	2
<b>All puerperal causes.....</b>		<b>135</b>	<b>5</b>	<b>—</b>	<b>9</b>	<b>5</b>	<b>42</b>
Rate per 100,000 live births							
660	Delivery without complication.....	—	—	—	—	—	—
670	Delivery complicated by placenta praevia or antepartum haemorrhage.....	1	7	—	—	—	—
671	Delivery complicated by retained placenta	1	—	—	—	—	1
672	Delivery complicated by other postpartum haemorrhage.....	3	7	—	—	—	6
673, 674	Delivery complicated by abnormality of bony pelvis or malposition of foetus....	1	7	—	—	14	—
675	Delivery complicated by prolonged labour of other origin.....	—	—	—	—	—	—
676, 677	Delivery with laceration or other trauma.	3	—	—	6	7	6
678	Delivery with other complications of childbirth.....	1	—	—	—	—	2
680	Puerperal urinary infection without other sepsis.....	—	—	—	—	—	—
681	Sepsis of childbirth and the puerperium....	2	—	—	6	7	2
682-684	Puerperal phlebitis, thrombosis, pyrexia, pulmonary embolism.....	4	7	—	—	—	5
685, 686	Puerperal eclampsia and toxaemia.....	1	—	—	6	—	2
687-689	Other and unspecified complications of the puerperium.....	2	—	—	12	7	2
<b>All puerperal causes.....</b>		<b>32</b>	<b>34</b>	<b>—</b>	<b>54</b>	<b>35</b>	<b>35</b>

DEATHS OF WOMEN REPORTED AS OCCURRING EITHER DURING PREGNANCY OR WITHIN 90 DAYS  
FOLLOWING DELIVERY, BY AGE, CANADA, 1964

Int. list No.	Causes of death	Total	Age							
			15- 19	20- 24	25- 29	30- 34	35- 39	40- 44	45- 49	50+
	Total.....	89	14	20	20	17	7	10	1	—
	I. Infective.....	1	1	—	—	—	—	—	—	—
002.1	Tuberculosis.....	1	1	—	—	—	—	—	—	—
	II. Neoplasms.....	8	—	1	4	3	—	—	—	—
193.0	Brain.....	4	—	—	1	3	—	—	—	—
201	Hodgkin's disease.....	1	—	—	1	—	—	—	—	—
204.3	Acute leukaemia.....	3	—	1	2	—	—	—	—	—
	III. Allergic, Endocrine System, Metabolic and Nutritional Diseases.....	2	—	1	—	1	—	—	—	—
277	Polyglandular dysfunction.....	1	—	1	—	—	—	—	—	—
289.2	Metabolic diseases, unspecified.....	1	—	—	—	1	—	—	—	—
	VI. Nervous System.....	5	1	1	1	2	—	—	—	—
330	Subarachnoid haemorrhage.....	2	1	—	—	1	—	—	—	—
331	Cerebral haemorrhage.....	1	—	—	1	—	—	—	—	—
340.1	Pneumococcal meningitis.....	1	—	—	—	1	—	—	—	—
353.3	Epilepsy.....	1	—	1	—	—	—	—	—	—
	VII. Circulatory System.....	21	2	3	4	5	3	4	—	—
410	Mitral valve disease.....	5	—	1	—	1	1	2	—	—
414	Other rheumatic endocarditis.....	1	—	—	—	1	—	—	—	—
416	Other rheumatic heart disease.....	2	—	—	1	1	—	—	—	—
420.1	Coronary heart disease.....	4	—	—	—	—	1	2	—	—
421.1	Chronic aortic endocarditis.....	1	—	—	—	1	—	—	—	—
421.4	Chronic endocarditis, unspecified.....	1	1	—	—	—	—	—	—	—
422.2	Myocardial degeneration, unspecified...	2	1	1	—	—	—	—	—	—
430.0	Acute endocarditis.....	1	—	—	1	—	—	—	—	—
433.0	Heart block.....	1	—	—	1	—	—	—	—	—
451	Aortic aneurysm, non-syphilitic.....	2	—	1	1	—	—	—	—	—
463	Phlebitis.....	1	—	—	—	—	1	—	—	—
	VIII. Respiratory System.....	2	—	1	1	—	—	—	—	—
492	Primary atypical pneumonia.....	1	—	—	1	—	—	—	—	—
522	Pulmonary congestion.....	1	—	1	—	—	—	—	—	—

DEATHS OF WOMEN REPORTED AS OCCURRING EITHER DURING PREGNANCY OR WITHIN 90 DAYS  
FOLLOWING DELIVERY, BY AGE, CANADA, 1964 (Concluded)

Int. list No.	Causes of death	Age								
		Total	15- 19	20- 24	25- 29	30- 34	35- 39	40- 44	45- 49	50+
	IX. Digestive System.....	4	—	—	3	—	—	1	—	—
538	Diseases of buccal cavity, unspecified..	1	—	—	—	—	—	1	—	—
550.1	Acute appendicitis.....	1	—	—	1	—	—	—	—	—
570.5	Intestinal obstruction.....	1	—	—	1	—	—	—	—	—
587.0	Pancreatic disease.....	1	—	—	1	—	—	—	—	—
	X. Genito-Urinary System.....	2	—	—	—	—	—	2	—	—
592	Chronic nephritis.....	2	—	—	—	—	—	2	—	—
	XII. Skin and Cellular Tissue.....	2	—	—	1	—	1	—	—	—
705.4	Lupus Erythematosus.....	1	—	—	1	—	—	—	—	—
716	Other skin diseases.....	1	—	—	—	—	1	—	—	—
	XIV. Congenital Malformations.....	4	1	2	1	—	—	—	—	—
754.2	Interventricular septal defect.....	1	1	—	—	—	—	—	—	—
754.7	Other circulatory malformations.....	1	—	1	—	—	—	—	—	—
757.3	Other G.-U. malformations.....	2	—	1	1	—	—	—	—	—
	XVII. Accidents.....	23	6	6	2	5	2	2	—	—
E802	Railway.....	1	—	—	—	—	1	—	—	—
E810-823	Motor vehicle.....	19	4	6	2	4	1	2	—	—
E891	Poisoning—CO <sub>2</sub> .....	1	1	—	—	—	—	—	—	—
E919	Firearm.....	1	—	—	—	1	—	—	—	—
E936	Other accidents.....	1	1	—	—	—	—	—	—	—
	Suicides.....	6	1	2	1	—	1	—	1	—
E970	Poisoning—Analgesic or soporific.....	1	—	1	—	—	—	—	—	—
E971	Poisoning—other.....	1	—	—	1	—	—	—	—	—
E974	Hanging.....	1	—	1	—	—	—	—	—	—
E976	Firearm.....	2	—	—	—	—	1	—	1	—
E979	Other means.....	1	1	—	—	—	—	—	—	—
	Homicide.....	9	2	3	2	1	—	1	—	—
E981	Firearm.....	4	1	1	2	—	—	—	—	—
E982	Cutting or piercing instruments.....	2	1	—	—	1	—	—	—	—
E983	Other assault.....	3	—	2	—	—	—	1	—	—

## DEATHS OF WOMEN REPORTED AS OCCURRING EITHER DURING PREGNANCY OR WITHIN 90 DAYS FOLLOWING DELIVERY, CANADA AND PROVINCES, 1964

Int. list No.	Causes of death	Canada	Nfld.	P.E.I.	N.S.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.	Yukon	N.W.T.
	Total.....	89	—	—	1	2	11	49	2	11	7	6	—	—
<b>I. Infective.....</b>														
002.1	Tuberculosis.....	1	—	—	—	—	—	—	—	1	—	—	—	—
	II. Neoplasms.....	8	—	—	—	—	2	2	—	—	2	2	—	—
103.0	Brain.....	4	—	—	—	—	1	1	—	—	1	1	—	—
201	Hodgkin's disease.....	1	—	—	—	—	—	—	—	—	—	—	—	—
204.3	Acute leukaemia.....	3	—	—	—	—	1	1	—	—	1	—	—	—
<b>III. Allergic, Endocrine System, Metabolic, and Nutritional Diseases.....</b>														
277	Polyglandular dysfunction.....	1	—	—	—	—	—	—	—	—	—	—	—	—
280.2	Metabolic diseases, unspecified.....	1	—	—	—	—	1	—	—	—	—	—	—	—
<b>VI. Nervous System.....</b>														
330	Subarachnoid haemorrhage.....	2	—	—	—	1	—	1	—	—	—	—	—	—
331	Cerebral haemorrhage.....	1	—	—	—	—	—	—	—	1	—	—	—	—
340.1	Pneumococcal meningitis.....	1	—	—	—	—	—	1	—	—	—	—	—	—
353.3	Epilepsy.....	1	—	—	—	—	—	—	—	—	—	—	—	—
<b>VII. Circulatory System.....</b>														
410	Mitral valve disease.....	21	—	—	—	—	4	11	1	3	—	2	—	—
414	Other rheumatic endocarditis.....	5	—	—	—	—	1	2	1	—	—	1	—	—
416	Other rheumatic heart disease.....	1	—	—	—	—	1	1	—	—	—	—	—	—
420.1	Coronary heart disease.....	2	—	—	—	—	1	1	—	—	—	—	—	—
421.1	Chronic aortic endocarditis.....	4	—	—	—	—	—	4	—	—	—	—	—	—
421.4	Chronic endocarditis.....	1	—	—	—	—	—	1	—	—	—	—	—	—
422.2	Myocardial degeneration, unspecified.....	1	—	—	—	—	1	1	—	—	—	—	—	—
430.0	Acute endocarditis.....	2	—	—	—	—	1	1	—	—	—	—	—	—
433.0	Heart block.....	1	—	—	—	—	—	—	—	—	—	1	—	—
451	Aortic aneurysm, non-syphilitic.....	1	—	—	—	—	—	—	—	2	—	—	—	—
463	Phlebitis.....	1	—	—	—	—	—	1	—	—	—	—	—	—
<b>VIII. Respiratory System.....</b>														
492	Primary atypical pneumonia.....	2	—	—	—	—	—	2	—	—	—	—	—	—
522	Pulmonary congestio.....	1	—	—	—	—	—	1	—	—	—	—	—	—

DEATHS OF WOMEN REPORTED AS OCCURRING EITHER DURING PREGNANCY OR WITHIN 90 DAYS FOLLOWING DELIVERY, CANADA AND PROVINCES, 1964 (Concluded)

Int. list No.	Causes of Death	Canada	Nfld.	P.E.I.	N.S.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.	Yukon N.W.T.
	IX. Digestive System.....	4	—	—	—	—	—	4	—	—	—	—	—
538	Diseases of buccal cavity, unspecified.....	1	—	—	—	—	—	1	—	—	—	—	—
550.1	Acute appendicitis.....	1	—	—	—	—	—	1	—	—	—	—	—
570.5	Intestinal obstruction.....	1	—	—	—	—	—	1	—	—	—	—	—
587.0	Pancreatic disease.....	1	—	—	—	—	—	1	—	—	—	—	—
	X. Genito-Urinary System.....	2	—	—	—	—	1	—	—	1	—	—	—
592	Chronic Nephritis.....	2	—	—	—	—	1	—	—	1	—	—	—
	XII. Skin and Cellular Tissue.....	2	—	—	—	—	—	2	—	—	—	—	—
705.4	Lupus Erythematosus.....	1	—	—	—	—	—	1	—	—	—	—	—
716	Other skin diseases.....	1	—	—	—	—	—	1	—	—	—	—	—
	XIV. Congenital malformations.....	4	—	—	—	—	1	3	—	—	—	—	—
754.2	Interventricular septal defect.....	1	—	—	—	—	—	1	—	—	—	—	—
754.7	Other circulatory malformations.....	1	—	—	—	—	1	1	—	—	—	—	—
757.3	Other G.-U. Malformations.....	2	—	—	—	—	1	1	—	—	—	—	—
	XVII. Accidents.....	23	—	—	1	—	2	14	1	1	4	—	—
E802	Railway.....	1	—	—	—	—	—	1	—	—	—	—	—
E810-823	Motor vehicle.....	19	—	—	1	—	2	11	1	1	3	—	—
E891	Poisoning—CO <sub>2</sub> .....	1	—	—	—	—	—	1	—	—	—	—	—
E919	Firearm.....	1	—	—	—	—	—	1	—	—	—	—	—
E936	Other accidents.....	1	—	—	—	—	—	—	—	—	1	—	—
	Suicides.....	6	—	—	—	1	—	3	—	—	—	2	—
E970	Poisoning—Analgesic or soporific.....	1	—	—	—	—	—	1	—	—	—	—	—
E971	Poisoning—other.....	1	—	—	—	—	—	—	—	—	—	1	—
E974	Hanging.....	1	—	—	—	1	—	—	—	—	—	—	—
E976	Firearm.....	2	—	—	—	—	—	1	—	—	—	1	—
E979	Other means.....	1	—	—	—	—	—	—	—	—	—	—	—
	Homicide.....	9	—	—	—	—	—	5	—	4	—	—	—
E981	Firearm.....	4	—	—	—	—	—	2	—	2	—	—	—
E982	Cutting or piercing instruments.....	2	—	—	—	—	—	1	—	1	—	—	—
E983	Other assault.....	3	—	—	—	—	—	2	—	1	—	—	—

DOMINION BUREAU OF STATISTICS  
BUREAU FÉDÉRAL DE LA STATISTIQUE

Ottawa, Canada

December 12, 1967.

Dr. Harry C. Harley, M.P.,  
Chairman of the Standing Committee  
on Health and Welfare,  
House of Commons,  
Ottawa, Ontario.

Dear Dr. Harley:

Further to our telephone conversation of December 11, I attach the additional figures you requested on deaths resulting from abortion (categories 650-652 of the International Classification of Diseases) for each of the years 1960-1966.

Also enclosed is a further table showing the number of charges, and number of persons charged, with committing and attempting to commit abortion during the same period.

The only other figure we have indicates that there are about 40,000 hospital in-patients each year for whom the primary diagnosis is recorded as abortion. Since we have no 4-digit breakdown of these figures they are unfortunately not of much help to your Committee. However selected data we have looked at for one province for one year indicate, as one would expect, that they are practically all spontaneous abortions without mention of sepsis or toxæmia.

Please, let us know if there is any further help we can give.

Yours truly,

F. Harris,  
Director,  
Health and Welfare Division.

CRIMINAL OFFENCES FOR ABORTION AND ATTEMPTED ABORTION<sup>[1]</sup>, CANADA, 1960-1966

	1960	1961	1962	1963	1964	1965	1966 <sup>[2]</sup>
Persons charged.....	28	31	27	33	31	28	37
Persons convicted.....	18	23	19	25	24	24	27
No. of charges.....	48	62	43	57	45	57	64
No. of convictions.....	32	45	34	33	32	43	40
No. of acquittals.....	13	16	8	16	9	14	20
Other disposition.....	3	1	1	8	4	—	4

<sup>[1]</sup>Criminal code sections 237(1), 237(2), 237(3a), 237(3b), 237(3c), 238.

<sup>[2]</sup>1966—not published

DEATHS DUE TO ABORTION. CANADA, 1960-1966

	1960	1961	1962	1963	1964	1965	1966	1960-1966
	Number							
Abortion (650-652).....	24	26	24	27	22	14	13	150
650 Abortion without mention of sepsis or toxæmia.....	5	8	8	4	8	4	3	40
.0 Spontaneous or unspecified.....	2	4	3	1	3	1	1	15
.1 Induced for medical or legal indications.....	—	1	—	1	—	—	—	2
.2 Induced for other reasons.....	3	3	5	2	2	3	2	20
.3 Other.....	—	—	—	—	3	—	—	3
651 Abortion with sepsis.....	18	16	15	21	12	10	9	101
.0 Spontaneous or unspecified.....	9	2	3	8	6	4	2	34
.1 Induced for medical or legal indications.....	—	—	1	—	—	—	—	1
.2 Induced for other reasons.....	9	14	10	11	6	6	6	62
.3 Other.....	—	—	1	2	—	—	1	4
652 Abortion with toxæmia, without mention of sepsis.....	1	2	1	2	2	—	1	9
.0 Spontaneous or unspecified.....	—	—	—	1	—	—	—	1
.1 Induced for medical or legal indications.....	—	—	—	—	1	—	—	1
.2 Induced for other reasons.....	1	1	1	1	1	—	1	6
.3 Other.....	—	1	—	—	—	—	—	1
	(Rates per 100,000 live births)							
Abortion (650-652).....	5.0	5.5	5.1	5.8	4.9	3.3	3.4	4.8
650 Abortion without mention of sepsis or toxæmia.....	1.0	1.7	1.7	0.9	1.8	1.0	0.8	1.3
.0 Spontaneous or unspecified.....	0.4	0.8	0.6	0.2	0.7	0.2	0.3	0.5
.1 Induced for medical or legal indications.....	—	0.2	—	0.2	—	—	—	0.1
.2 Induced for other reasons.....	0.6	0.6	1.1	0.4	0.4	0.7	0.5	0.6
.3 Other.....	—	—	—	—	0.7	—	—	0.1
651 Abortion with sepsis.....	3.8	3.4	3.2	4.5	2.6	2.4	2.3	3.2
.0 Spontaneous or unspecified.....	1.9	0.4	0.6	1.7	1.3	1.0	0.5	1.1
.1 Induced for medical or legal indications.....	—	—	0.2	—	—	—	—	*
.2 Induced for other reasons.....	1.9	2.9	2.1	2.4	1.3	1.4	1.5	2.0
.3 Other.....	—	—	0.2	0.4	—	—	0.3	0.1
652 Abortion with toxæmia, without mention of sepsis.....	0.2	0.4	0.2	0.4	0.4	—	0.3	0.3
.0 Spontaneous or unspecified.....	—	—	—	0.2	—	—	—	*
.1 Induced for medical or legal indications.....	—	—	—	—	0.2	—	—	*
.2 Induced for other reasons.....	0.2	0.2	0.2	0.2	0.2	—	0.3	0.2
.3 Other.....	—	0.2	—	—	—	—	—	*

\*Less than 0.1 per 100,000 live births.

## APPENDIX "EE"

## The Elizabeth Fry Society of Ottawa

(Under the Patronage of the Honourable  
Madame Georges P. Vanier)

14 Metcalfe Street, Ottawa 4, Ontario.

December 19, 1967.

Dr. Harry C. Harley, M.P.,  
Chairman,  
Committee on Health and Welfare,  
House of Commons,  
Ottawa, Ontario.

Dear Sir,

The Elizabeth Fry Society of Ottawa presents the following views, in the hope they will constitute a helpful contribution to the examination of the problems of abortion, and the amendment of the present Canadian Law.

The Society of Ottawa was established in 1951 as a voluntary After-Care Society. With assistance from the Federal and Provincial Governments, The Community Chest and individual members of the Society we now offer the following services: visiting inmates in Carleton County Jail, assistance in finding employment and accommodation, on release, advice in solving personal problems, counselling and supervisory parole services for offenders from the Mercer Reformatory and the Kingston Prison for Women.

The objects of the Society are as follows:

- 1) To aid in the *rehabilitation* of women who have come into conflict with the law.
- 2) To develop a programme of *community* education related to the prevention of delinquency and the treatment of the offender.
- 3) To encourage and where necessary urge Governments to develop more effective means of preventing crime and helping the offender to be rehabilitated—*official action*.

Before making any recommendations a study was made of Bills C-122, C-123 and C-136, as well as the briefs from the "Emer-

gency Organization for the Defence of Unborn Children" and the "Association for the Modernization of Canadian Abortion Laws" (AMCAL).

In each case dissatisfaction is expressed with the existing legislation. AMCAL asks on Page 4 of their brief for "revision and clarification". On Page 24 of their presentation the "Emergency Association for the Defence of Unborn Children" asks for "clarification of abortion laws". These two organizations, although opposed on many points *agree* that the present legislation is not a satisfactory law. The Elizabeth Fry Society of Ottawa concurs with these views and also asks for revision and clarification. Desirable changes in abortion legislation have occurred in the United States, the United Kingdom, Denmark and many other countries, it is time Canada too *revised* and *clarified* her antiquated laws.

Continuing the study of the briefs of AMCAL and the Emergency Organization for the Defence of Unborn Children, we find further *agreement* in the approach to the problem. The Emergency Organization brief on page 23, asks that mothers 1) receive the best possible medical care; 2) direct government financial aid and better housing; 3) professional counselling and advice; 4) domestic help or part-time day care and homemaker services. In the appendix to the AMCAL brief we find their recommendations for Mother's Aid Centres in Canada similar to the Aid Centres of Denmark. Many of the centres' aims seem to coincide with the desires of the Emergency Organization for the Defence of Unborn Children. For example, on page 2 of the AMCAL appendix "direct financial support may be granted". Also on page 2 "guidance to pregnant women and mothers"; "domestic help during pregnancy and after childbirth". Further, on page 3 "financial assistance, training and retraining". The appendix states in paragraph 17, page 3, "an

effort is always made to avoid abortion". In paragraph 18, page 3, the staff "always considers the possibility of helping the woman carry her pregnancy by socio-medical treatment of by social, economic and/or personal support."

The Elizabeth Fry Society of Ottawa agrees again with their common view for a constructive approach to a problem pregnancy.

We would recommend that a Pregnancy Act be passed in Canada similar to that passed in Denmark in 1937 and amended in 1956, thus removing abortion from the Criminal Code of Canada. The Pregnancy Act of 1956 is explained in detail in the appendix to the AMCAL brief at the bottom of page 3. Briefly, the Act stresses the risk to the physical and mental health of the mother but investigates these risks and seeks the most constructive solution for the person involved. For instance, 81 per cent of the women who were refused an abortion stayed with the Mothers' Aid Centres and had their babies, receiving help and counselling. Since 1961 these Aid Centres have also operated contraceptive clinics which again stressed education and prevention rather than abortion.

The Elizabeth Fry Society of Ottawa recommends that the Canadian Government and the Provincial Departments of Health study these Danish Aid Centres, with a view to setting up similar ones in Canada. This is a constructive approach, saving the lives of many mothers and their unborn children. We would further recommend that the appropriate legislation for a Pregnancy Act be enacted in conjunction with a Mothers' Aid Act to provide for these Centres.

We support a liberalized but at the same time constructive approach to problem pregnancy.

Respectfully submitted,

Margaret R. Breen

(Mrs. Harold J. Breen)  
President.

R. Edith Eisenhower

(Mrs. H. R. Eisenhower)  
Chairman, Committee for  
Research & Public Action.

## APPENDIX "FF"

To The Standing Committee of  
the House of Commons  
on  
Health and Welfare

From John Alexander Shanks, M.D.,  
Obstetrician and Gynaecologist,  
Brockville, Ontario.

## Preamble

Certain groups of doctors such as the Canadian Medical Association and the Royal College of Obstetricians and Gynaecologists of England have publicly expressed opinions on therapeutic abortion which differ from mine. I would not like legislation to be formulated in the belief that these collective opinions represented the feelings of all members of the groups.

Since graduation from the University of Aberdeen Scotland I have practised general medicine in the United Kingdom and in Canada for twelve years and have been a lecturer in the Department of Pathology and of Obstetrics and Gynaecology in the University of Aberdeen for almost four years, under Professor Sir Dugald Baird whose liberal and advanced views on therapeutic abortion are internationally known. I am a member of the Royal College of Obstetricians and Gynaecologists of England and a Fellow of the Royal College of Physicians and Surgeons of Canada. These are my qualifications.

## Introduction

It is tempting to refute the specious arguments of such organizations as the Emergency Organization for the Defence of the Unborn Child which are illogical, irrelevant, and often mistaken, but there seems to be more value in a positive expression of fact and opinion in favour of an increased availability of therapeutic abortion. It has been stated by medical authorities that prevention of pregnancy by contraception and sterilization is infinitely preferable to therapeutic abortion, and few gynaecologists would disagree with this view. But unwanted pregnancies will continue to occur despite the best efforts

to prevent them and it is no solution to the problem to wish that it did not exist.

## Moral Considerations

For many people acceptance of termination of the unwanted pregnancy hinges on the concept of when life begins. When religious dogma or conviction dictates that this is the moment of union of the two sex cells therapeutic abortion must always "take life", but the life of the human foetus up to the time of viability, when independent existence is possible, is no more than the ability of the body cells to multiply and organize in the same way as those of a fungus or a plant. Before viability the foetus has the potential to become a human being, but is not yet a human being capable of functioning as such separate from the mother. Legal viability is reached after twenty weeks of gestation, although in practice it is almost unknown for the child born before twenty-eight weeks to survive. For this reason therapeutic abortion should be performed before the twentieth week of gestation (or the twenty-fourth week at latest), and because the operative hazards are less.

## Practical Considerations

Therapeutic abortion is not without danger to the mother, and the risks increase with the duration of the pregnancy. It may be performed by curettage through the vagina or by opening the uterus through the abdomen, and although improved methods are coming into use the operations are distasteful and unpleasant to many gynaecologists, who are more aware than other members of the profession of the hazards. The gynaecologist is not therefore inclined to embark on these procedures lightly or casually but only if he

feels the benefits are likely to outweigh the disadvantages of continuation of the pregnancy. This inherent control should dispel fears that these operations may be undertaken irresponsibly and for trivial indications.

### Indications

In defining situations where artificial termination of pregnancy is desirable the reason for the intervention should be as important as the act itself. Albeit small, there is risk to health and even life in the state of pregnancy and the act or parturition, and if the outcome is an unwanted or unhealthy child the conditions were better terminated. Simple humanitarianism calls for abortion in cases of rape, incest and when an abnormal child is anticipated. When the mother's physical health is likely to be impaired the pregnancy should be removed.

It is much harder to assess the ill effects of a pregnancy when the arrival of a child will alter the social and economic condition of the mother in a more or less harmful way. It does not seem to be an oversimplification to say that if the mother does not want the child the pregnancy should be terminated. This amounts to abortion on request, but the individual or agency to whom the request is addressed should have the prerogative of deciding if the reasons are strong enough to justify the abortion. This means a consideration of the risks of the operation and its effect on the mother's psychological state relative to the benefits of ending the pregnancy.

There are two important areas in which a decision to perform abortion may have to be made. The first is the young unmarried girl who is in high school or university whose education or career may be compromised or jeopardized by pregnancy. One may accept the situation. Another feels she cannot. Where early marriage is contemplated and a slightly lower level of education can be accepted it may be necessary to do nothing; but where a major disruption of the girl's plans is inevitable the pregnancy should be removed. She will benefit more, as will society, from her acquisition of a degree rather than a baby.

The second is the married woman whose family, large or small, is big enough for her financial means, or for her physical or psychological capacity to raise it. The effect on the mother, the father, and the other children may be sufficiently destructive to warrant removal of the pregnancy.

These situations which are the most commonly encountered in clinical practice are the ones in which the individual doctor should have freedom to evaluate the desirability of therapeutic abortion.

Pregnancy is the result of an act which may have been carried out in a number of different circumstances. The woman may have been reluctant or unwilling, or even unknowing (e.g. drunk); she may have been carried away by a romantic situation. In all these cases the act was performed in a state of mental aberration when her judgment was distorted and does not truly represent her habitual behaviour. On the other hand intercourse may be undertaken deliberately with or without precaution against pregnancy, in ignorance or in optimism, and in some cases irresponsibly and repeatedly with no concern for the consequences. In the former type of situation the results outweigh the original action and impose an unduly harsh sentence. In the latter it is questionable whether such a woman is suitable for motherhood. Sterilization, permanent or temporary, would be a more satisfactory way of dealing with these problems. The existence of some totally irresponsible young unmarried women who would be regular applicants should not deny the benefits of abortion on request to the larger number in whom it might be justified.

### The Decision To Terminate Pregnancy

It is not important who makes the decision to terminate a pregnancy provided it is made with wisdom and humanity. There is no objection to a well constituted board or committee except that the practical problem of delay may increase the operative risk. A practising gynaecologist should have the power to decide to perform therapeutic abortion providing another doctor, having apprised himself of all the features of the case and assessed the patient concurs in the decision. A report from a competent person (e.g. social worker, public health nurse, family doctor) on the domestic condition and social and economic factors may be of great importance and should be included in the record made by the attending doctor.

### Conclusion

If it is accepted that no destruction of life is involved in terminating a pregnancy before the child can lead an independent existence, there is no good reason for refusing to relieve a pregnant woman of a burdensome condition

if she so desires. As there may be circumstances in which abortion may carry more risk than continuation of the pregnancy or where it would appear that the mother's request is made irresponsibly or under the influence of temporary emotional stress, a woman should not be held to have the right to have a therapeutic abortion, but she should have the right to be considered as a candidate for therapeutic abortion. Equally there should be no obligation on a doctor to perform such an operation if he does not wish to do so.

Ready availability of therapeutic abortion will not make much difference to the number of criminal abortions which are now performed in the proverbial back streets. Secrecy will always be sought by the ashamed. But many young girls and many multiparous wives will lead happier and more useful lives if therapeutic termination of pregnancy is within their reach. As society becomes more tolerant the concept that pregnancy is a punishment is withering and should blow away with the wind of enlightened change.

## APPENDIX "GG"

BRIEF TO  
THE STANDING COMMITTEE OF  
THE HOUSE OF COMMONS  
ON HEALTH AND WELFARE  
FROM  
RIGHT TO LIFE COMMITTEE  
RE  
PROPOSED CHANGES IN THE LAW  
CONCERNING ABORTION

- Section                      FORMAT
- 1) Summary of Conclusions.
  - 2) Concerning various assumptions and assertions.
  - 3) Reasons for abortion and for legal changes—Pros and Cons.
  - 4) Concluding Statement.
  - 5) Appendix: References and quotations (Numbers in right margin of text.)

Right to Life Committee,  
P. O. Box 275,  
Burlington, Ontario.  
January 15, 1968.

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## SUMMARY OF CONCLUSIONS

THE RIGHT TO LIFE COMMITTEE  
CONTENDS:

- 1) That life itself is the fundamental and basic human right from which all other rights spring. (2-1)
- 2) That there is no logical point *from conception to death* at which this right does not apply. (2-2)
- 3) That the fetus is logically and biologically *human life from the moment of conception*. (2-2)
- 4) That no person can judge the comparative worth of one human life against another.
- 5) That the law must protect individual human rights and particularly innocent and defenceless human life. (2-3)

- 6) That if the Canadian Government does not protect *all* human life as a legal right, then other human rights will necessarily cease to have any secure foundation in law. (2-4)
- 7) That any broadening of the abortion laws may have most serious and deep-seated consequences for future generations. (2-5)
- 8) That, therefore, far more time and study are required by your Committee before any major departure from present principles is made. (2-6)
- 9) That your Committee should not in all justice, recommend broader grounds for legal abortions unless it has been proven beyond a doubt that human life does not exist at any time prior to birth.

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CONCERNING VARIOUS ASSUMPTIONS  
AND ASSERTIONS

The discussion on abortion law reform has produced so many unsupported statements, loose thinking and purely emotional appeals that a summary of some of the more common examples, with our comments, seems appropriate.

- 1) "The unborn child has no rights."  
"The fetus is not a human life until . . .  
a) Implantation in the womb  
b) Quickening  
c) Birth  
d) Some other arbitrary moment between conception and birth.

There is no logic, only an arbitrary opinion, in any of these statements. Biological research now demonstrates that specifically human life starts at the moment of conception.

(3-1), (3-2), (3-3)

Pro-abortion reformers know that their case largely depends on acceptance of one of the above statements. If accepted, no one need have a troubled conscience any more—abortion would merely be a matter of practical issues; if accepted, the matter can be left to doctors, psychiatrists and social workers to decide each case as they see fit; if accepted, there is no need for a law.

In our opinion, the statements are contrary to the views held by the vast majority of mankind.

The amount of discussion and diversity of opinions indicate clearly how deeply concerned all students of the subject really are and indicate how doubtfully such statements are made by some of those who claim to believe them.

Can we believe such deep concern in aroused over nothing more than a lump of "protoplasm"?

(3-4)

In such a serious matter, the proponents of change must prove their case beyond reasonable doubt.

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Have they done this?

Your Committee must face the issue and decide when human life begins. Your Committee then has the duty to recommend that our Government does not legalize direct abortion after human life has begun to exist.

2) "A woman has a right to decide if she wants to bear the child."

She has a right to decide before the child is conceived. She has numerous alternatives to avoid conception. She also has a responsibility for the results of her own free choices. A discussion of rights concerns moral and ethical values—rights also carry comparable obligations.

(4-1)

Once a child is conceived, a woman's rights cease to be merely private and personal. The life of another human being is at stake; the rights of the father may be involved; the right of the State to protect all human life is involved.

3) "A child has a right to be born wanted."

This is certainly the ideal situation but it hardly follows that the child should be killed before birth in cases of doubt.

How can one be sure that the mother will not change her mind later—when it will be too late?

(4-3)

If the mother does not want the child after birth, there are alternatives open such as adoption or foster homes or institutions. Millions of persons alive today live full and happy lives in spite of not being wanted by their natural mothers.

4) "Most people are in favour of easy abortion laws."

Editorial assertions are not evidence.

From the scanty evidence available, we

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submit that the contrary is the truth. In our own experience, many persons who have been swayed by emotional appeals often reverse their opinions when given additional facts in this matter.

(4-4)

5) "A woman has a right to decide what to do with her body."

(5-1)

Present law refutes this. For example, a woman may not prostitute her body, attempt suicide, or maim herself.

6) "Other countries are doing it."

Does this necessarily make it good?

Some countries which have tried easy abortion laws are already reversing their legislation, for example Romania.

(5-2), (5-3)

7) "The medical profession supports the changes."

This is open to question, at least on the part of some obstetricians who are not happy at the prospect of being pressured into performing abortions.

(5-4)

In any case, the support of a professional body is not adequate reason for a change involving so many different aspects.

- 8) "Present law discriminates against the poor."

Unfortunately many laws do this. The only way to overcome this problem is to allow abortion on demand, as often is desired, free of charge at taxpayers' expense. Is this what is wanted?

- 9) "There are 100,000 (or 500,000) illegal abortions in Canada annually."

There are *no* reliable statistics on this.

(5-5), (5-6), (5-7)

The lower figure is only guesswork, the higher figure seems to be used for shock value to support an argument. Mere repetition in newspapers does not make the figures true.

(5-8), (5-9)

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No illegal abortionist submits a report to the Dominion Bureau of Statistics.

The variety of estimates given for criminal abortions in Canada follows a similar pattern in the United States, and United Kingdom. Analysis of the figures for Canada provides the only comic relief in an otherwise ugly subject.

First, Dr. Donald Low's estimate of 25,000 to 75,000 criminal abortions annually in Canada was given to your Committee, but the doctor himself placed no reliance on his own estimate, during your hearings on October 31st.

The Humanist Fellowship of Montreal then presented an estimate of 100,000 but gave no source of information. The Unitarian Church of Vancouver then gave the estimate as "at least 100,000". The Association for the Modernization of Canadian Abortion Laws boosted this to "as many as 300,000 annually" which total was later termed "conservative" by the National Council of Women. The Canadian Abortion Law Reform Association at present holds the record by estimating "anywhere from 100,000 to 500,000".

These inflated estimates, proffered without proof and repeated by the press, make Hitler's "big lie" propaganda technique look like child's play.

According to the Dominion Bureau of Statistics there are fewer than 4,000,000 Canadian women of childbearing age—from 15 to 45 years of age.

The estimate of 500,000 criminal abortions per year means 1/8th of the criminal abortion per year for every woman of child-bearing age in Canada. On average then, over her 30 fertile years, this means every woman in Canada must have nearly *four* criminal abortions. If only half the women had them, then each of them would have to have more than seven, if only a quarter of the women, then close to 15 each.

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The more modest estimate of 100,000 criminal abortions per year works out to one for every Canadian woman during her child-bearing years. One *criminal* abortion not just one induced abortion. If only half the women have such abortions, this means two each, if only a quarter of them, then close to four each. Does anyone really believe this could be true?

The only official figures we have seen were presented to you by John Hackett of Downsview giving Dominion Bureau of Statistics totals for deaths from illegal abortions: only 9 in 1966 and the previous two years. In addition, Dr. Douglas Cannell stated, during the hearing of the Canadian Medical Association Brief on October 31, that deaths from criminal abortions had fallen to ZERO in the past year in Ontario.

- 10) "A woman should not have to bear a child resulting from rape or incest."

These cases horrify all decent persons. It may be argued that the fetus is there by no act for which the mother is responsible. However, if pregnancy occurs it raises more problems than just the question of abortion.

Rape is easy to allege and often very hard to prove. If rape is one of the few grounds for legal abortion, one may expect a great increase in charges of rape with consequent grave injustice where the charge is false.

(7—1)

If a conviction is necessary, this might take six months, possibly nine months or more—then what?

If a conviction is not necessary, anyone wanting an abortion only has to cry "rape"—thereby making a fool of the law.

These cases are almost invariably cited for their enormous emotional appeal in support of easy abortion laws. Yet, statistically, they

are a tiny fraction of all abortion cases and are hardly relevant to the main issues.

Such extreme and infrequent cases deserve special consideration and much greater study, but so far no proposals appear to solve the problem without producing new questions. For example, in many cases the abortion may

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damage the physical or mental health of the mother more than carrying the child until it is born.

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REASONS FOR ABORTION AND  
FOR LEGAL CHANGES\*  
PROS AND CONS.

1) *To save the life of the mother.*

This is already permitted by law.

2) *To save the health of the mother.*

The need for therapeutic abortion on medical grounds appears to be rapidly disappearing with the advance of medical knowledge.

(9-1), (9-2)

By contrast, the actual abortion may result in serious medical and psychiatric defects in the woman.

(9-3)

The need for therapeutic abortion on psychiatric grounds remains doubtful, to say the least. There seems to be no firm agreement within the profession and no reliable criteria are available at present.

(9-4), (9-5)

Much research appears to be needed to discover the long-term, sometimes delayed, after-effects of an abortion. What does it do to women medically, psychiatrically, and with regard to their relationships with their husband, children, other men, and society in general? What percentage of women in mental homes have had abortions? Is abortion a significant factor in marriage break-up and divorces?

(9-6)

How can a good law be written, at this time, which includes any such vague term as "mental health"?

3) *To prevent the birth of a defective child.*

What is meant by deformity? What is meant by defective? How much is permissi-

ble? Who sets the standards by which to judge? What odds are needed to risk killing a normal child by mistake? Or is this unimportant?

(9-7)

Medical knowledge is not sufficient for 100% accuracy in forecasting defects.

Many deformed or defective children grow to live useful and happy lives. Their defects may be a challenge to them. Many parents love and cherish their children in spite of defects. They are shining examples of unselfish love.

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Loving care for the weak and unfortunate is in the finer tradition of our civilization. Abortion is not the answer, nor is infanticide which many see as the logical extension.

Indeed, abortion for eugenic reasons opens wide the door to acceptance of all manner of alien philosophies which would horrify those who now support this particular reason for it. Many fail to see that the weakening or abandoning of the principle of reverence for human life has no logical stopping point thereafter.

(10-1)

Race purity, master race theories, human efficiency, "Human engineering", control of reproduction by governments—these ideas are already being preached, have already been tried out.

(10-2)

4) *To prevent the birth of an unwanted child.*

Unwanted by whom? When? Before conception? In early pregnancy? At birth? When safely delivered into its mother's arms?

Is a woman in great distress really able to make such a decision (to abort)—one so absolutely final and irrevocable?

Will later remorse for her action far exceed her present distress? Frequently when abortion has been refused, the mother has been glad of it afterwards.

(10-3)

The laws of nature often seem harsh but force one to accept responsibility for one's actions. Will easing the law perhaps encourage irresponsibility?

5) *To reduce the number of illegal abortions.*

This is claimed to be one of the most important reasons for broadening the legislation.

Legally speaking, it seems a dangerous precedent to widen a law so that lawbreakers no longer have to worry.

On the evidence available from other countries this result is not achieved. The very opposite is more likely, unless there is no restriction left to break.

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The wider the grounds for legal abortion, the more socially acceptable it becomes. Such laws promote an increase in the total of abortions without eliminating the illegal variety. We believe that it is irresponsible to allow abortion to become a second line of defence when contraceptive measures have failed or been disregarded.

(11-1), (11-2), (11-3)

6) *To remove the fear of prosecution from doctors.*

Without fear of prosecution the law is almost meaningless. Doctors have no more right to break the law than anyone else.

It is, however, agreed that some clarification of the intent of the law is required.

Doctors will always be under pressure to perform abortions for reasons not permitted by law unless all the restrictions are lifted.

7) *To save the mother from economic hardship or social shame or from inconvenience to her social life or career.*

The effort should be made to alleviate the conditions giving rise to the request for abortion, not to destroy human life for such reasons.

How is hardship to be judged? What dollar value is to be placed on a life? How do you compare hardship? One person is content with a little—another is never content. Who is to judge? Can personal shame or comfort or convenience be placed in the same scale as human life?

(11-4)

A doctor has no special competence in such matters. The guilt-feelings following abortion for such reasons may well be far worse than the distress of pregnancy, without considering the risks of the actual abortion.

(11-5)

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CONCLUDING STATEMENT.

Not only the intent of the law matters but also the results in practice.

Those who would broaden grounds for legal abortion are sincerely concerned with the suffering and hardship of many unfortunate women unwilling to bear the babies which they have conceived. We share this concern but disagree with the solutions offered.

Abortion seems to be the negation of the very nature of womanhood; it violates every natural instinct and is never done without risk to her, both physical and mental. The woman who wants an abortion is often already the victim of some other problem which is not removed by the abortion.

(12-1)

*Moral/Ethical Considerations*

Regardless of religious faith, or its lack, most Canadians have some moral-ethical principles and the great majority consider the taking of innocent human life a serious crime against society.

A weakening of respect for human life will seriously affect the national character and the moral basis of our Canadian society. Any expansion of grounds for legal abortion will in fact set up some new and vague moral standard in place of the sanctity of human life.

(12-2)

*Moral/Psychiatric Considerations.*

Medical indications of serious risk to the mother's life, as grounds for abortion, are in accord with the present law.

At this time, psychiatric indications for abortion appear to be too vague and to lack reliable criteria. No good law can be written on the basis of such conflicting opinions.

(12-3), (12-4), (12-5)

Eugenic grounds for abortion are fiercely opposed. There is no acceptable standard by which to judge who shall live and who shall die. On the other hand, every effort should be made by Government and Society to assist the parents and child where the latter is born defective in any way. This seems a far nobler and more humane approach to the problem.

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*Socio-Economic Considerations.*

By currently accepted standards, the economic and social well-being of one person is

not more important than the very life of another.

Abortion is neither the best nor the only solution to such problems and is strongly opposed on these grounds.

This group of reasons for abortion appears to be the last step in abortion on demand.

#### *Legal Considerations*

The "First Report" of the Standing Committee on Health and Welfare (for period June 29th. to December 19, 1967) draws attention to certain ambiguities and contradictions in the present law which should be clarified. Those recommendations which are generally in accord with the principles already stated in this brief are welcomed.

However, the recommendations to allow abortion for reasons of danger to the health of the mother may well prove to be a considerable broadening of the law. They appear to set up a new standard whereby one person's health becomes more important than another person's life; alternatively, they implicitly affirm that the fetus is not human life and therefore does not have equal rights. The Right to Life Committee cannot accept either of these principles.

The meaning of the word "health" is so vague in itself that interpretation of the new wording could mean almost anything. If psychiatric and mental health are included, the interpretation, *in practice* could permit abortion almost on demand.

(13-1), (13-2)

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We realize that the way the law is observed in the future is largely dependent on the ethical standards of the medical profession. We fear these standards will be imperilled by pressures to perform abortions for reasons not intended but inherent in the wording of the new law.

(14-1)

Is it right to transfer to the medical profession the burden of being judge, jury, and executioner?

(14-2)

#### *General Considerations.*

Because of the almost total lack of reliable statistics on abortions, we support the idea that all hospitals and authorized medical centres be required to report all abortions performed under the new law to some department of government at a national level.

Because of the lack of evidence, we believe that broadening the law at this time would be

yielding to pressure from a very vocal minority which fails to see the full implications of its proposals.

(14-3)

We submit that direct abortions is wrong on all counts and is not a solution to the problems which give rise to the demand for it.

Finally, we are at a loss to understand the haste to rush the proposed changes into law.

The Health and Welfare Committee admits in its report the lack of factual evidence and the need for much more study, including the experience of other countries. What justification is there, then, for the proposal to amend the law to include "health" grounds?

This is not a minor change; it is a vital new principle, announced at the same time as the admission that there is insufficient evidence to support it.

The action of the Government and the Minister of Justice, in hastily introducing amendments to the law on abortion, has been taken by many as an act of contemps and as a denial of the right of the people to be heard before introducing legislation.

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The action of the Health and Welfare Committee, in submitting an interim report before hearing all scheduled groups, has been taken as a disregard for the opinions of those groups.

(15-1)

Why could not this matter have been proposed to allow proper study? What good purpose is served by such haste? Will the amended law be any more enforceable than the present one?

We have seen no official statement of the problems which Bill C-122 (Abortion) and Bill C-136 (Termination of Pregnancy) are intended to solve. Yet it is essential that the specific problems be stated publicly so that the necessary assessment can be made of the probable effectiveness of any solutions proposed.

Are the proposed amendments in conformity with the 1959 United Nations Declaration on Human Rights passed in plenary session to which Canada was a signatory? The Declaration states "The Child by reason of its physical and mental immaturity needs special safeguards and care including appropriate legal protection *before* as well as after birth."

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APPENDIX: References and Quotations.

PAGE & NO.

- 2-1 Karl Barth, eminent Protestant theologian. *Church Dogmatics*.  
"He who destroys germinating life kills a man and thus ventures the monstrous thing of decreeing concerning the life and death of a fellow man."
- 2-2 Dietrich Bonhoeffer, eminent Lutheran theologian (executed by Nazis.) *Ethics*.  
"Destruction of the embryo in the mother's womb is a violation of the right to live. To raise the question whether we are here concerned already with a human being or not is to confuse the issue."
- 2-3 Dr. D. A. Schmeiser, Associate Professor of Law, Saskatoon.  
Hamilton Spectator report 8th December, 1967.  
Saskatchewan Conference on Human Rights  
Dr. Schmeiser stated that the right to life is the most fundamental right.  
"I am fearful of the effect on our attitudes of such a law (abortion)...by logical progression we should soon be killing our aged, our infirm, our diseased, our crippled, our unemployed, our non-conformists."
- 2-4 Richard A. McCormick, S.J.  
Bellarmine School of Theology.  
"A failure in proper reverence for a single life, be it adult or intra-uterine, is an attack upon us all in principle."
- 2-5 Dr. Ian Donald, RCOG., University of Glasgow. Regius Professor of Gynecology.  
"We fear the long-term effects of this type of legislation which by cheapening life can only lead to surreptitious lowering of ethical standards. If abortion is accepted as a way out of a social difficulty, our social services will be discouraged rather than helped."
- 2-6 Dr. Carl H. Jonas, Psychiatrist. Associate Technical Professor of Psychiatry, University of California Medical Center.

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"One of the functions of the social group is to provide standards and measures and aids to help individual

members to live up to the standards of the group. If the group fails in these it is, to that extent, an inferior society."

- 3-1 Dr. Edward L. Kessel, PhD. (Calif.)  
Professor and Chairman, Dept. of Biology, University of California.  
Referring to the belief that a child is some lower form of animal life up to the time of birth:  
"As a biologist I cannot accept this conclusion the fertilized egg, or zygote as it is technically called, must be regarded as the child, even in this simplest stage of organization, because it possesses all of the human genes that a human being can have even as an adult.  
Therefore, to destroy a child in any stage from conception to infancy involves the taking of human life."
- 3-2 Maternity Center Association, N.Y.  
Booklet: *How does your baby grow?*  
"A baby's life begins at the very moment the sperm unites with the ovum.  
Will your baby be a boy or a girl? Who will he look like? What type of blood will he have?... His whole heritage is forever fixed when these two cells join together."
- 3-3 Committee on Maternal and Child Care, California Medical Association.  
"...your baby is alive and growing from the moment of conception."
- 3-4 Mrs. Charlotte D. Lefcoe  
Newspaper report of brief to Health and Welfare Committee.  
Re the fetus (Compare with 1, 2, & 3 above) "I don't believe it is a life. I believe it is a lump of protoplasm."
- 4-1 Womens Liberation Group  
Report of brief to Health and Welfare Committee  
Objection by many to abortion reforms "is in fact an objection to the idea that women should have equal sexual freedom." (compare with 4-2 below.)

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- 4-2 Dr. Carl Jonas (q.v. 2-6)  
"...there is considerable uniformity of evidence and opinion that woman has an innate nature to be the giver, the nurturer and the protector of life.

Anatomically, physiologically and emotionally she is unique in this way. This is her glory above all other of her glories. In this matter she alone can excel."

"An abortion constitutes a serious threat, an irreversible failure to this womanly core regardless of her social mores, her environmental adversities."

- 4-3 Medical Director,  
Oslo Board of Health, Norway.  
Report.

"Additional help in the area of psychological and psychiatric care is being sought, because it was found that some of these women (seeking abortions) under adequate care changed their minds and reversed their desires for the performance of induced abortion."

- 4-4 Mrs. Alice Rossi, Research Associate,  
University of Chicago,  
Committee on Human Development.  
Comment on N.O.R.C. Survey of Attitudes: (1966)

"Any suggestion of abortion as a last resort means of birth control is firmly rejected by the majority of American Adults.

- 5-1 Humanist Fellowship of Montreal Inc.  
Report of brief to Health and Welfare Committee.

"Abortion should be granted when procreation is not the aim and unwanted pregnancy results. Denial of abortion in these circumstances, the Humanists feel, is a violation of a woman's right to decide what to do with her body."

- 5-2 "Abortion Shocked Romania"  
Southam News Services.  
"A year after drastically restricting its Law of Free Abortion, Romania is experiencing a major population explosion....

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The Romanian birth rate, which stood at 25.6 per thousand before the 1957 change, plummeted to 14.3, second lowest in Europe after Hungary.

Ministry of Health and Public Welfare officials became concerned over the health of women who obtained abortions (some had as many as 14) and signs that families were growing less stable...

But it wasn't until the government belatedly realized what its birth rate meant in terms of the next generation's working population that it took action."

- 5-3 Karoly Jobaggy, (Communist writer)  
*Elet es Irodalom*. Publication. Feb. 1964.

"I would not have believed that scarcely eight years (after broad legalizing of abortion) we would be looking at this freedom with doubt, struggling with the monstrous possibility of the extinction of our nation... The fact is that the Hungarian nation is growing weaker."

- 5-4 Globe and Mail Report,  
Brief to Health and Welfare Committee, from Canadian Medical Association.

"I would prefer to prevent conception rather than terminate pregnancy" said Dr. Douglas Cannell, a Toronto obstetrician who cited distaste for abortions generally and the risk of complications."

- 5-5 Recent samplings of newspaper reports in U.S.A. reveal such statistics on illegal abortions:  
At first between 200,000 and 1,200,000. Increased later to 1,500,000. More recently increased to 2,000,000. All have been discredited by professional demographers.

Deaths from illegal abortions have been given as high as 10,000 annually. Yet, Dr. Christopher Tietze, Statistician for Population Council, notes that only 247 Were reported and puts the total at about 500.

- 5-6 Norman St. John-Stevas, M.P., United Kingdom. Article.

"The English debate shows the follow of rushing into legislation without adequate investigation of the facts and discussion of the issues. It became clear after the abortion bill had been introduced that no one had any reliable information about the incidence of illegal abortions, and that the statistics about legal abortions were also inadequate.

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Referring to estimates of illegal abortions in U.K. annually, given as between 50,000 and 100,000: "These

turned out to be nothing better than guesses."

- 5-7 Dr. C. B. Goodhart. *Eugenics Review*. U.K. Jan. 1964

Suggested the figure for illegal abortions in Britain was "much more likely to be 10,000 a year."

- 5-8 Norman St. John-Stevas, M. P. (q.v. 5-6) Referring to Abortion Conference, Washington, Sept. 1967., sponsored by Kennedy Foundation and Harvard Divinity School.

"I was struck by the similarity of the situation there."

"The conference made it clear that the figure of 1,000,000 illegal abortions a year in U.S.A., is merely a guess. Other figures banded about ranged downwards to as low as 200,000 but no reliance can be placed on any of them."

- 5-9 Question at Public Meeting in Hamilton.  
Right to Life Committee. December 1967.

"If the cost of an abortion is about \$300 for operation and hospital services and there are 100,000 abortions a year in Canada, this would cost the taxpayer \$30,000,000 per year on a free Medicare Plan. Has this cost been taken into consideration by anyone?

Please comment.

Answer: Dr. G. J. Quigley—I think the figures are exaggerated."

The question and answer indicate how little is known for sure on either statistics or costs.

- 7-1 NOTE: The U.K. Bill prohibits abortion after 28 weeks unless essential to save the life of the mother.

The U.K. Bill does not specifically mention rape cases because of the legal and practical aspects of proof and a doctor's competence to make a final judgement in such a matter.

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- 9-1 *Greenhill*, 1951

"Therapeutic abortion is rarely indicated and medical therapy has improved so much that few affections justify its performance."

- 9-2 Dr. R. J. Heffernan. 1951. Address to: Congress of American College of Surgeons.

"...anyone who performs a therapeutic abortion is either ignorant of modern medical methods of treating complications of pregnancy, or is unwilling to take the time to use them."

- 9-3 *Eastman*, 1966

"Indeed, even in normal, healthy women the mortality and morbidity rates of the operation (abortion) are considerable."

- 9-4 Norman St. John-Stevas, M.P. (q.v. 5-6)

"A further major revelation of the Washington Conference was the vagueness of the psychiatrists present...Not one of them could produce any satisfactory objective criteria, (for abortion on grounds of damage to mental health) and in the end they took refuge in a theory of 'hunch'. In matters where life and death are involved, this is hardly good enough."

- 9-5 Dr. Wendell W. Watters, Associate Professor of Psychiatry, McMaster University.

At. Public Meeting, Hamilton, 10 December 1967.

"There is a present lack of valid criteria on which to judge" (need for abortion on psychiatric grounds.)

"We must re-examine all the evidence before changing the law, and the medical profession should not be expected to carry the burden of decision alone whether or not to terminate pregnancy."

- 9-6 Dr. Carl. H. Jonas, (q.v. 2-6)

"From a psychiatric point of view there are three long-term destructive effects of an abortion:

- 1) The effects on the relationship to her sexual partner and to men in general.
- 2) The effects on the identity and integrity of the woman itself.

—Page 22—

- 3) The effects on the social structure in which the individual lives."

"It is because of these violations of her core nature...that she suffers severe self-reproach, loss of identity and irresolvable guilt as a result of abortion."

"It is this personality change which contributes so prominently to the altering of her relationships to her lover,

her husband, and to all men in general."

9-7 Dr. Carl H. Jonas (q.v. 2-6)  
"Every member of society has a vital stake in what value system is adopted towards its weak, aged, crippled, helpless, intrauterine members."

10-1 Dr. Ian Donald, RCOG. (q.v. 2-5)  
"Do you imagine that more will be done (for unmarried mothers) in the future if the State regards abortion as a cheaper and more convenient alternative?"

10-2 Dr. William Shockley,  
Professor of *Engineering Science*,  
Stanford University, Calif.  
Hamilton Spectator Report  
Recommends pregnancy certificates to be purchased on the Stock Exchange. All girls would be rendered temporarily sterile unless they could produce such certificate to allow them to have a child. Technological efficiency seems to be all that matters.

10-3 Dr. Ian Donald, RCOG (q.v. 2-6)  
"I might add that none of our patients, as a result of refusal to abort, has died, none has gone mad, and none has committed suicide."

11-1 Dr. Carl H. Jonas (q.v. 2-6)  
Quoting case of teenager who was pregnant and went to her parents for help, the girl said "They were so concerned about what their neighbours and friends would say, that they couldn't think about me. They just said 'we'll have to get rid of the baby; that's all there is to it'. Deep down they didn't care what it did to me."

11-2 Dr. Ian Donald, RCOG. (q.v. 2-5)

—Page 23—

"The availability of abortion will only increase the pressure (by parents) on that poor girl."

11-3 Calderone, 1958  
"Dr. Kinsey insisted that the greatest number of induced abortions were found among those using contraceptives who grew careless."

11-4 Supreme Court of New Jersey, *Gleitman v. Cosgrove*. March 1967 Re: mental and physical defects.

Said the Court:

"The right to life is inalienable in our society. Though we sympathize with the unfortunate situation in which these parents find themselves, we firmly believe the right of their (unborn) child to live is greater than and precludes their right not to endure emotional and financial injury."

11-5 Dr. Carl H. Jonas. (q.v. 2-6)  
"We, as psychiatrists, know that the true measure of maturity in an individual is...also how he responds to deprivations, burdens and frustrations."

12-1 *Eastman*, 1966  
"According to the eminent Japanese demographer, Yoshio Koya, not less than 47% of women in Japan experience post-abort complications following induced interruption of pregnancy in his country."

12-2 Rev. Calvin C. Tucker, Lutheran Pastor.  
Interfaith Committee for Social Justice, San Jose, Calif.  
"The growing human being in utero partakes of the reference with which we ought to respect all of life."  
"God's people are given special instructions through the Gospel to feed, care, love and heal. Their participation in abortion movements has a peculiar ring, a negative sound."

—Page 24—

12-3 Ebaugh and Heuser, 1947  
"...there exist very few, if any psychiatrists who would feel that therapeutic abortion is indicated in any of the psychoneurotic reaction types."

12-4 *Eastman*, 1966  
"The English psychiatrist Sim goes so far as to state that there are no psychiatric grounds for termination of pregnancy."

12-5 Guttmacher, 1954.  
"The further shift to neurotic indications has become a medical man's judgement of the economic and social or purely selfish factors which he believed to be responsible for the patient's condition."

- 13-1 William H. Jarrett, Sociologist.  
At Albany, N.Y., hearing on abortion reform.

"The 'physical or mental health' clause virtually guarantees that anyone desiring an abortion can get one, if possessed of sufficient funds. Surely, none of us is so naive as to pretend that a woman desiring an abortion cannot find a physician who can be convinced that the birth of her unwanted child would perhaps be injurious to her mental and possibly her physical health, particularly if she is willing to shop around for a clinician. Indeed, 'injurious to mental or physical health' covers such a broad and uncertain range of human conditions that it could well apply to all persons gathered in this room who have done something injurious to health this morning, or will do so before the day is over."

- 13-2 Report on two Buffalo, N.Y., Hospitals: Percentage of total abortions performed for psychiatric reasons rose from 13 per cent in 1943 to 87½ per cent in 1963.

- 14-1 International Code of Medical Ethics.  
World Medical Association. London, 1949

"A doctor must always bear in mind the importance of preserving human life from the time of conception until death."

- 14-2 Dr. Ian Donald RCOG (q.v. 2-5)

—Page 25—

"Does the public want us to lower our standards? Does the public want us to assume the abortionist's role?"

- 14-3 Dr. Ian Donald, RCOG. (q.v. 2-5)

"We cannot afford to under rate the longer term effects of such a bill, which are bound to result in increasing pressures being brought to bear upon a profession, however unwilling, to undertake abortion on non-medical grounds."

- 15-1 Dr. Ian Donald, RCOG. (q.v. 2-5)

"Abortion is an ugly subject and calls for ugly words, but it appears that there are some who cannot bear to hear the truth, yet they are prepared to advise others, including those of us who have to do the job."

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OFFICIAL REPORT OF MINUTES  
OF  
PROCEEDINGS AND EVIDENCE

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ALISTAIR FRASER,  
*The Clerk of the House*

HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1967-68

116

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STANDING COMMITTEE  
ON  
**HEALTH AND WELFARE**  
*Chairman: Mr. HARRY C. HARLEY*

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MINUTES OF PROCEEDINGS AND EVIDENCE  
No. 16

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TUESDAY, JANUARY 30, 1968

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Respecting the subject-matter of

Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

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WITNESSES:

*Representing The London Society for the Protection of the Unborn: Dr. L. L. de Veber, M.D., F.R.C.P.(C), Assistant Professor, Departments of Paediatrics and Pathological Chemistry, The University of Western Ontario; and Dr. Jack Walters, M.D., F.R.C.S.(C), FACOG, FACS, Professor of Obstetrics, St. Joseph's Hospital and The University of Western Ontario, both of London, Ontario.*

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1968

UNIVERSITY OF TORONTO

## STANDING COMMITTEE ON HEALTH AND WELFARE

*Chairman:* Mr. Harry C. Harley

*Vice-Chairman:* Mr. Gaston Isabelle

and

Mr. Allmand	Mr. Forrestall	Mr. Orange
Mr. Ballard	Mr. Howe ( <i>Wellington-</i>	Mrs. Rideout
Mr. Brand	<i>Huron</i> )	Mr. Rochon
Mr. Brown	Mr. Knowles	Mr. Rock
Mr. Cameron	Mr. Laverdière	Mr. Rynard
( <i>High Park</i> )	Mr. MacDonald ( <i>Prince</i> )	Mr. Simard
Mr. Chatterton	Mrs. MacInnis ( <i>Vancouver-Kingsway</i> )	Mr. Stanbury—(24).
Mr. Cowan		
Mr. Enns	Mr. Matte	

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

TUESDAY, January 30, 1968.  
(19)

The Standing Committee on Health and Welfare met this day at 11:25 o'clock a.m. The Chairman, Mr. Harry C. Harley, presided.

*Members present:* Mrs. MacInnis, Mrs. Rideout and Messrs. Allmand, Brand, Chatterton, Cowan, Forrestall, Harley, Howe (*Wellington-Huron*), Isabelle, Knowles, MacDonald (*Prince*), Matte, Orange, Rock and Mr. Stanbury—(16).

*In attendance: Representing The London Society for the Protection of the Unborn:* Dr. L. L. de Veber, M.D., F.R.C.P.(C), Assistant Professor, Departments of Paediatrics and Pathological Chemistry, The University of Western Ontario; Dr. Jack Walters, M.D., F.R.C.S.(C), FACOG, FACS, Professor of Obstetrics, St. Joseph's Hospital and the University of Western Ontario.

The Committee resumed consideration of the subject-matters of Bills C-122, C-123 and C-136.

The Chairman welcomed Dr. Walters who introduced Dr. de Veber. The latter made a preliminary statement and explained to the Committee, through projection of slides and a short film, some new approaches in medicine.

Dr. Walters also made a statement, and used slides and sound recording to illustrate his point that the previable fetus has life.

Both Dr. Walters and Dr. de Veber were questioned.

*Agreed,—*That the brief from The London Society of the Protection of the Unborn be printed as an appendix to this day's proceedings. (*See Appendix "HH"*)

Dr. Walters and Dr. de Veber were further questioned.

The Chairman thanked Drs. Walters and de Veber for their presentation, and at 1:30 o'clock p.m. the Committee adjourned to 11:00 a.m. Thursday, February 1st.

Gabrielle Savard,  
*Clerk of the Committee.*



## EVIDENCE

(Recorded by Electronic Apparatus)

Tuesday January 30, 1968

• 1124

**The Chairman:** Ladies and gentlemen, we have a quorum.

There is no particular correspondence to bring to the attention of the members.

**Mr. Cowan:** Mr. Chairman, regarding correspondence, have you a letter from Mr. Ed O'Brien from Toronto?

**The Chairman:** Yes.

**Mr. Cowan:** I think that letter is worthwhile. Would you read it to the Committee, or do you not read individual letters?

**The Chairman:** I have not been making a practice of reading individual letters. We have received something over 500 now and I think to make them all part of the record would be superfluous.

**Mr. Cowan:** The other 499 are not as good as Mr. O'Brien's, though.

**Mr. Stanbury:** Perhaps they do not conform to Mr. Cowan's opinions.

**The Chairman:** I think that would be the proper interpretation.

**Mr. Cowan:** No, that is not what I said.

**Mr. MacDonald (Prince):** Let him circulate the letter on his own.

**Mr. Cowan:** Well, I would suggest that the letter of Mr. Ed O'Brien be circulated to members of the Committee.

**Mrs. MacInnis (Vancouver-Kingsway):** You do it.

**Mr. Cowan:** It was not addressed to me.

**Mr. MacDonald (Prince):** You are obviously aware of it though.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes.

**Mr. Cowan:** I am well aware of it but I have not read it.

**Mr. MacDonald (Prince):** As you suggested that it was worth reading I assume you can get a copy.

**The Chairman:** How can you be sure it is worth reading if you have not read it?

**Mr. Cowan:** I know what its contents are, my friend. If you will not circulate it, give me a copy and I will circulate it. Is that agreed?

**Some hon. Members:** Agreed.

**The Chairman:** That is fine. We will see that it is circulated somehow.

**Mr. Rock:** Mr. Cowan, have you not read it?

**Mr. Cowan:** No, but it was read to me while the writer was holding it in his hand.

**The Chairman:** Perhaps Mr. Cowan is indirectly referring to what I think Mr. O'Brien in one of his letters makes reference to, a meeting in which Mr. Cowan is going to participate next week.

**Mr. Cowan:** Oh no, that is past; that is prologue.

**The Chairman:** If there are no other comments I think we should move on to our witnesses for today. They are here to represent the London Society for the Protection of the Unborn. The official spokesman for the party is Dr. Walters, M.D., F.R.C.S., Professor of Obstetrics at St. Joseph's Hospital and the University of Western Ontario.

**Dr. Jack Walters (M.D., F.R.C.S., Professor of Obstetrics, St. Joseph's Hospital and the University of Western Ontario):** Thank you, Mr. Chairman and members of the Committee. I would like to introduce Dr. de Veber who is Assistant Professor, Department of Paediatrics and Pathological Chemistry at the University of Western Ontario. I bring regrets from Dr. Tillmann, the Associate Professor of Psychiatry, who unfortunately, with his other meetings and teaching commitments, was not able to be here.

The London Association was established during the time your Committee has been sitting. It was established by a group of physicians of different religious beliefs, including a female physician, to discuss some of the proceedings and the proposed change in law relative to abortions from a purely scientific approach. We have continued these discussions and our research into the subject, and I must say that it has stimulated us to go into the available literature as we never have before.

We found many areas of unknown for future research and we found many facts to support our feeling that we should present a brief here with the prime purpose of attempting to bring to you some of the facts which we feel are important from a scientific standpoint.

We have attempted to make the brief short, but also bring out the points we wish to emphasize and I think Dr. de Veber will lead off with a discussion of the brief and his general remarks. I will discuss the particular section for which I was responsible, and in the absence of Dr. Tillman I will attempt to answer questions or lead discussion concerning the psychiatric aspects of this. I would like to introduce Dr. de Veber.

**Dr. L. L. de Veber (Assistant Professor, Department of Paediatrics and Pathological Chemistry of the University of Western Ontario):** Thank you, Dr. Walters. I attempted to keep my introduction short, but you can see it was not very short and after reading the proceedings of this committee I think it is, of course, largely repetitious.

I feel there are a few points I would like to emphasize in this introduction at the present time. For instance, the question of abortions for defective children. As a pediatrician, and in trying to keep up with advances in medicine, I find that the concept of doing abortions to remove defective children is rather distasteful because it is a negative approach and does not take into account what can be done for these children, plus the fact that many people seem to think that deformed children of various sorts are suffering. I would like to point out that this is very rare. These children may be rather difficult to look at, they may be terrible sights, but they do not suffer. I think it is the people around them who suffer and therefore to perform an abortion to prevent this suffering is not logical.

Taking one specific instance, german measles, which is the most common indication for abortion for defective children, I think most of you are aware that this particular disease will be eliminated because there is a vaccine against german measles which will come on the market within the next few years which will eliminate this disease if it is used properly. But even if we consider deformed children, I think the concept of abortion has been very well defeated or refuted by an article that appeared in *Lancet* this week where 50 children who had the german measles syndrome were followed along until they were 25 years of age and then they were studied by a group in New Zealand. This group found that 46 of these children, who were supposedly terrible messes and monstrosities, were actually employed and doing useful work and were well adjusted in society. I just take this particular example to emphasize the negative approach of doing abortions for defective children.

#### • 1130

I am also concerned that there is a very thin line between abortion and euthanasia. I know this is not acceptable to most people and again the thalidomide problem can be taken as an example where an abortion for a woman who had taken thalidomide was well accepted. Shortly after this, as you may remember, a woman in Belgium had a thalidomide baby and this baby was destroyed by the mother and the doctor and public reaction was very favourable. This sort of thing worries me. How many arms or legs or fingers does a child have to have before it is going to be allowed to survive?

Another matter I would like to mention briefly is the question of out-of-hospital or criminal abortion, which is often raised as an emotional issue, where women die or suffer serious disability because of abortion done out of hospital. I hope that by this time the Committee has accepted the concept that any widening of the laws will result in an increase in criminal abortion. There are many statistics that support this and I will not go into it, but if the government thinks that they are going to eliminate the problem of out-of-hospital abortion by widening the laws, judging from what has happened in other countries they will be disillusioned.

Furthermore, I think it could do a disservice to the people of this country by creating the so-called abortion climate where women begin to think that abortion is easy to obtain. They become lax about contraceptives and then when they go to seek an abortion they find it is very difficult. For example, even women in Sweden and Denmark are going to Poland and Hungary to get abortions after having been turned down by the Royal Medical Board.

I think we should also look at what is happening in other countries. I am glad to hear that this Committee is doing so, because countries such as Rumania and Czechoslovakia are now passing very strict laws against abortion and even contraception; they are trying to stop the damage that is going on and complications such as sterility of the patient in 20 to 30 per cent of cases, and so on.

In summary, when we look at the medical facts and experience of other countries, the problem of criminal or out-of-hospital abortion cannot be solved by changing the abortion laws. The proper approach is preventative, and an example of this is in Ontario where there have been no reported deaths from criminal abortion to the mother in the last two years, as opposed to a fair number in the past. We can assume that this is because of better use of contraceptive advice and family planning and better treatment of complications. Whether the illegal abortionist should be credited with increased skill is beyond me, but I think that that is the only other logical approach.

Having made these remarks, I would now like to really concentrate on my strongest feelings on the subject, and that is the question of what is being aborted, what is happening with an abortion. As a pediatrician, and one who is also involved in attempting to treat or protect children in the womb, again I find it very difficult to accept that the foetus is not a human being. You have heard these arguments many times before and I am not going to go into them. I hope with the use of some films and slides to show you the sort of work that I am involved in and make you realize that to us who work with the foetus this is a very vital and valuable human being. To say that it is a part of the mother and that she has the right to destroy it is unacceptable. To us who are working with them this is

completely wrong, and to try and decide that the foetus is human at some stage and not at another is also simply not logical or scientific.

I think I will end my remarks there and I will show some slides and part of a movie that will illustrate a new technique in medicine. This is really I think why Dr. Walters and I are here, to try and show you that the new approaches in medicine are showing more and more that the foetus is a human being and, looking to the future, that any laws that are passed should take this into account.

• 1135

I think we will have to have the lights pretty well out or dimmed to see these slides properly. I will show you briefly what is done to try and save some babies affected with the Rh problem, who are too small to bring out of the womb. The first step in treating these patients is to take a sample of fluid from the baby and analyse it, and this is part of my job. On the basis of this analysis, if the baby is too small, we may decide that it is too sick to go on much longer and too small to get out of the womb.

The next slide will show you a diagram. This is not taken from a medical journal, it is taken from *Time* magazine. However, I feel it is still a valid diagram and it shows briefly the concept of putting blood into the baby's peritoneal cavity while it is still in the mother's womb. This treatment is now well accepted in many centres in North America and the world and it is saving a certain number of Rh babies.

I will show you a further slide which I hope will show up in the movie. This is a needle that...

**Mr. Allmand:** Would you tell us at what stage of pregnancy these were taken?

**Dr. de Veber:** Yes. This particular case is a 26 weeks gestation. This diagram, of course, is a non-specific or general diagram. The next slide of the actual patient is a baby at 26 weeks gestation who is too small to take out of the womb and who was transfused in the uterus. The needle is in the baby's abdomen and the dye you see there indicates that the needle is in the right position, and blood is then put into the baby. This may be repeated three and four times.

This particular patient is at 26 weeks, but I should point out that this procedure has been carried out at 18 and 20 weeks in unusual cases, so that even as far back as 20 weeks we are attempting to treat these babies.

I will now show a section of a movie of the same patient in an attempt again to illustrate briefly what happens. This is an electrocardiograph of the baby taken from a wire that is inserted in the peritoneal cavity following the insertion of a needle and then a catheter. This is used to assess the baby's condition during the transfusion. If the cardiogram shows distress, the transfusion then may be stopped. As I said this procedure has been carried out at very early stages when cardiograms can be taken, and Dr. Walters will show studies of very early foetuses, and in some cases where heart recordings have been taken.

This is simply a picture of the instrument dial that is used to record the findings. Here the doctor is actually injecting the blood through the mother's abdominal wall and into the baby who is actually moving at the time, and this is all part of the procedure, this attempt to keep up with the baby's movements. We treat the baby as a patient by trying to keep the mother sedated and not hurt the baby too much.

I think I will end the film there, but I am trying to use this as an example of the sort of work that is going on now. It makes one wonder about the period of viability of the foetus. It used to be 26 weeks in my days at medical school; it is now 20 weeks. It may go down to 14 weeks, and from what has been done in basic science it may be possible to keep very early foetuses alive. This type of work that I am involved in, as I say makes it difficult for me not to accept these very small foetuses as human beings and therefore any thought of destroying them simply because the mother does not want them is very repugnant to me. It also brings up the question of legal rights of the foetus, which you have heard of before, and I can do no better than quote Dr. Liley who invented the intrauterine technique, which has opened up a whole new field of surgery called fecology or embryiatrics, where research going on now about operating on these babies; taking them out of the uterus and putting them back into the uterus after their operation. This has actually been done in Rh cases, so I would like to ask people who will not accept the foetus as a

human being until it is born what they think of the foetus while it is out of the mother and being operated on and then put back into the womb again. Does it become inhuman simply because it is put back into the womb? In closing, I will quote Dr. Liley. He says that this new field of embryology or embryiatrics brings up.

interesting medicolegal problems—for instance, the problem of consent for a procedure on the fetus. What rights does the fetus have? Can the mother-to-be refuse a procedure that might be life-saving just because she is still 'bearing the baby'?

I would like to close my comments with the plea that if anything is done regarding abortion that the baby be considered as a vital human being with all the rights of an individual in our society.

Thank you.

• 1140

**The Chairman:** Thank you Dr. de Veber.

**Dr. Walters:** The point that I would like to discuss is an extension of Dr. de Veber's work and, as Dr. de Veber said or did not say, he does the control work for our whole university and the whole of Western Ontario for Rh problems, so he is dealing with these sick babies *in utero*. In the hospitals in the area a liaison has been established to have these babies come in as early as possible and they are treated as early as possible. This is an educational process which we are carrying out. The whole emphasis is on earlier and earlier development of the foetus, and the treatment of conditions in this area. As a matter of fact, there is a whole new concept of the pediatrician, and Dr. De Veber is one of that profession. They are now called intra-uterine pediatricians. We have been at two conferences in the United States where this term is actually being used for the whole group of pediatricians who are concentrating on nothing but the foetus before it is born. Our concept of the pediatrics of the past—the foetus after it is born—has now moved into this area.

As Dr. de Veber said, the development of techniques in the basic sciences, electronics, even in plastics, over the past ten years has been phenomenal, and in the future the establishment of artificial environment for

these foetuses outside of the mother is a distinct possibility. They are working on this in California now with small foetuses, attempting to promote the oxygen transfer to the baby, the baby having been lost by the mother at a stage when it could not breathe on its own. Over the future I think this will be a stage of development that we will be quite interested in. Purely from the standpoint of research, our teaching and work, we are also interested in the foetus in the intra-uterine phase. The assumption that this foetus is a protoplasmic mass, a mass of jelly, a potential human but not with life, stimulated us as I said, to present this brief to you.

In the brief I listed the six criteria which we use for the diagnosis of life in an adult and also for life in a foetus. Many times in a week we are presented with the problem whether the baby is alive or dead, and we have to use these criteria in attempting to assess how the patient is going to be treated. If the baby has died, it is one way; if it has not died, then we must try to correct the problems in the mother and promote the growth of the baby to the point where it can survive on its own outside the uterus. We assess this by clinical assessment. In paragraph two of the brief we point out that you can hear the foetal heart and foetal movement about the fourth month. We do this quite frequently every day, listening with a foetuscope—which is the same as a stethoscope—held against the mother's abdomen and you can hear the baby moving or the heart beat. This is a clinical assessment which we teach medical students and nurses, and we utilize it daily to assess foetal life *in utero*. You have already seen a film of the electrocardiograph tracing which was taken of a baby at a rather advanced stage of development, 26 weeks.

If I could just show the first slide here, this is an electrocardiograph tracing done on a baby at 11 weeks, and you can see the foetal complex marked F. The larger maternal complex is marked M. These are done in cases where we cannot hear the foetal heart with the stethoscope. If the patient is thought to have a baby which has died, by taking the electrocardiograph we can prove that the baby is still living. This has been done down to 11 weeks and is a valid technique for assessing life *in utero* at this stage. I would point out that this is the stage at which therapeutic abortions are done. If they are going to be done, they are done before the third

month has expired. They can be done after that but it is a much more serious problem to do them beyond the third month. This is the stage at which they would be aborted. If I could have the lights on again, please.

• 1145

There is another technique we use and which can be used at an earlier stage than the electrocardiograph because we cannot get a wire directly into the baby at this early stage. If we could we would take it down to a much earlier stage, but by putting in a needle or a wire to get an electrocardiograph earlier than the 11th week we are getting into a fairly small uterus and the danger of putting the needle into the baby's skull or eye is considerable. So, we do not attempt to take an electrocardiograph by needle, or we cannot get it earlier than this because of interference. However, we use another technique called the Doppler technique and, as I describe on the second page of the brief, this is a projection of a high intensity beam of sound directed at a moving stream of anything. It can be water or it can be blood, and in this particular case it is blood. The Doppler cone of sound goes out, is interfered with by the movement of blood, and is converted to a sound which we can hear. The Dopplone is a technique and an instrument which we use daily in our delivery rooms in Canada, and it is used in the United States and in the rest of the world. It is used to pick up foetal heart beats early, to monitor foetal hearts through labour, and it is used in other areas as well. I have a recording here—I beg your indulgence—and the first sound is that of a mother's heart beat, which is quite clear and you may hear the mother's heart beat at a relatively slow and normal rate as an adult heart beat would be, followed by much interference, because this has to go through the abdominal wall and the muscles are contracting, but in the background you will hear a rapidly going, rather high beat. I beg your indulgence. It is easy for us to hear but in a room of this size I am afraid some of you may not be able to hear this. The first sound is that of the mother. You now hear the foetal heart beat.

**Mr. Chatterton:** At what stage of development?

**Dr. Walters:** This is nine weeks and five days after conception. We know this because this girl is an infertility problem; she has been followed before she became pregnant; we know what her temperature chart did; we know what her temperature did the day she conceived and we know the day she conceived. We do this routinely in infertility problems and we know this is nine weeks plus five days. That is a foetal heart at that stage.

The next group of slides we have are from Dr. Westin of the Sabbatsbergs Hospital in Stockholm. These are part of your brief and I regret this slide is not larger, but it is reproduced in the briefs you have before you.

• 1150

On the far left is the weight of the baby in grams. These are all fetuses which have been aborted in Sabbatsbergs Hospital in Stockholm for various reasons below the third month of gestation. The fetus was immediately placed in a solution which maintained it. It was then put in an apparatus which provided a circulation of oxygen for the fetus to obtain by the circulation of its own blood. In other words, an artificial placenta was set up and these are recordings of the baby's heartbeat, blood pressure, oxygen uptake, carbon dioxide production and, in the bottom one on the far right side, you can see that the baby attempted to breath when its carbon dioxide content became critical, or at the level where respiration was stimulated.

This is very similar to the adult. If you hold your breath as an adult you cannot kill yourself this way because your carbon dioxide content will rise; it will stimulate you to take a breath in spite of yourself and this is what happened to this fetus.

This is scientific and repeatable evidence that the fetus at the stage of development these abortions are being done in Sweden is a living, beating human. I hope this will lay to rest some of the evidence that has been given in the past on the basis of less scientific reporting.

The next slide is an example of the electrocardiograph on one of these fetuses taken out of the uterus before the third month, showing the blood pressure the baby maintains, the flow of blood it maintains, and the electrocardiograph showing the beating of the

heart. Those little dips in the top line are heartbeats, so that although we cannot do this clinically, the fetus at this stage of development does have a heartbeat, a blood flow and a blood pressure and it is a living being.

The next slide shows fetus at six weeks. Just below the hand you can see the bulge of the heart. This is the stage of development of the fetus at six weeks. This would mean a patient has missed her period, she is two weeks over and this is the stage where usually we diagnose pregnancy; following this in further development of the fetuses where the decision to do an abortion would take place. So at this stage you can see the fetus has an eye, a nose, its fingers are formed, it has a heart and, rather blocked out by the umbilical cord, you can see the leg and feet of the fetus. It has a brain and the heart is beating. It is pushing the blood from that red blob of heart out through the placenta and back. Therefore, this is a living being.

We have heard that the fetus at this stage looks like a fish or a pig. Perhaps it does, but I think even some of us have rather elongated noses and I may look a bit like a pig myself, but this is not to say that it is not human because it has the form it has here. It is disproportionately large in its head, because the brain makes man what he is and this is the fastest growing, most highly developed centre in his body, so that it grows first and it does give a distorted part to the developing fetus.

• 1155

The next slide shows the fetus at 11 weeks. This is the fetus of which we had the electrocardiograph and this is the size it would be here. You can see that it now has an upper and lower limb, the ear is formed and the eye and you can see the mass of the developing liver, spleen, bowel and heart. This again is the stage at which this fetus would be aborted.

We have heard from some witnesses that during an abortion it was nonsense to say that there were pieces of feet and arms being brought out through the uterus during an abortion. This is absolutely not true. You do see pieces of the fetus. Obviously these pieces have to be brought out through the neck of the womb or the cervix in performing an abortion. All you have to do is ask any

obstetrician who has had to do this and he will certainly bear witness to this.

The next slides show the foetus at 16 and 18 weeks you can see that the baby has developed even more.

People say the intrauterine foetus has no emotion. One of the emotions that we are very cognizant of in the child which has been born is the satisfying suckling reflex, and this is a reflex in a foetus at 18 weeks that has been lost. This baby obviously is sucking its thumb and has the emotion, showing that these foetuses do have a highly developed brain, they have reflexes and even down to the size of the foetuses in Dr. Westin's series they have reflexes; they move and respond when stimulated.

**Mr. MacDonald (Prince):** Were these pictures taken outside the womb?

**Dr. Walters:** This one was not. This one was with an amnioscope; it was taken inside the uterus. The previous one with the whole envelope of the corium around it was out, but this was taken inside with a camera and a scope like cystoscope. It is a long tube with a light on it that goes into the uterus and looks and takes pictures, and this actually was taken inside the uterus with the foetus undisturbed. That is the the last of the slides, thank you.

I would like to close by re-emphasizing that we are interested in saving babies. Science is going ahead in this field very rapidly. I know the decisions you are trying to make here are very difficult. We have tried to present some scientific fact to show you, demonstrate to you or attempt to convince you that the foetus, the baby, is living at this stage of development when the abortion is going to be performed. If I have accomplished this, then I have accomplished what I came here for. Thank you.

**The Chairman:** Thank you Dr. Walters and Dr. de Veber. The meeting is now open for questioning. The Chair will try to restrict everyone so all may have a chance to ask questions. Mr. Allmand?

**Mr. Allmand:** Dr. Walkers, the second column of the chart you referred to sets out "Age in Hours" and the figures 1.5, 6.5, 2.0, and so on. Does that mean age in hours from the time of conception?

**Dr. Walters:** No, age in hours since the baby was aborted. They had to set up the equipment and these babies were actually resuscitated. I did not say this in the presentation but some of these babies had no sign of life when born. It is the same as when we receive a "code 7" in our hospitals: somebody is dead in emergency but they are resuscitated by stimulation of the heart externally or with electricity, or oxygenation by means of a tube down into the trachea. As you know, a number of people are now living because they were resuscitated in this manner. This was done with some of these foetuses after the abortion had been performed.

• 1200

**Mr. Allmand:** I am addressing my next question, which relates to the time when pregnancy begins, to you or Dr. de Veber. I asked this question at the last meeting because I had read an article which stated that pregnancy did not really begin until the foetus had become implanted on the side of the uterus. But in another article I read a doctor said, in respect of a survey taken among doctors, that cognition more or less indicated that the pregnancy began as soon as the ovum was fertilized even though most of the physiologists, in reply to the survey, said that the pregnancy began only when the fertilized ovum was placed on the side of the uterus. This is important because, I understand that science is developing techniques which could prevent the fertilized ovum from implanting itself on the side of the uterus. The question then becomes: Is it abortion or is it contraception when one does something to prevent the implantation of the fertilized ovum on the side of the uterus? I would like your opinion.

**Dr. Walters:** This is a very good question and one that I think many many societies, associations and research areas are looking at. I would say there is no such thing as a touch of pregnancy. We often say this to students or people who are concerned that they are infertile. There is no way, they either are or they are not pregnant. The egg implants, if this is an established pregnancy, but even before it implants the union of the sperm and the egg is the start of conception, and we date our pregnancy from this. For instance, with respect to the girl we referred to, we know that on that day the egg and the sperm unit-

ed. We know the length of time it takes for the egg to die and the sperm to die, and we know that they unite usually in the tube. They move down the tube in a certain number of days, and if they happen to implant in the tube then, of course, there is a pregnancy in the tube. It does not have to implant in the uterus to be a pregnancy. Once conception has occurred, once the union of the egg and sperm has occurred, this is the start of life.

The early development of this, granted, is a combination of a baby and the placental tissue which is going to feed it, but it soon divides and becomes separate. This is what happens at the time of implantation and so, in the stage of transport, it is a living mass of tissue but a human mass of tissue.

No one has answered this question, whether it is contraception or abortion if you do something before it implants, and certainly I could not.

**Mr. Allmand:** If we accept everything you say, that this is human life at these early stages, can you not conceive of situations in which one life must be balanced against another life, let us say the human life of the foetus against the life of the mother, taking into consideration the fullness of life, let us say, of both individuals, and that there would be circumstances sometimes, when considering the development of one life against the stage of development of the other life, when you would still be morally justified in performing an abortion?

• 1205

**Dr. Walters:** This may be a moral issue but it is more likely a medical issue. I would submit that what we are dealing with in this question is past history. We were taught as medical students—and we had to learn this to become a doctor—that abortions were done for tuberculosis, for renal disease, for heart disease, and for diabetes. At the present time most of these are not accepted by the medical profession as reasons for abortions. I suppose, in the ancient past of medicine, bloodletting used to be an accepted fact for certain conditions but there are very few people that do this now. I think it is the same thing; we are moving into a phase where medical knowledge and medical advances are so rapid that we do not have to make these decisions. I hate to bring a personal point into this but in my practice I have never had to make this decision. We as doctors just deal with these

things, on the basis of the education we received, by picking them up early, by treating them adequately, and preventing the problem rather than being suddenly presented with the problem. I think medical students, nurses, and the public at large, even Committees such as this, need education.

**Mr. Allmand:** That is why we called witnesses.

**The Chairman:** Mr. Stanbury, you are next.

**Mr. Stanbury:** Mr. Chairman, Dr. Walters just mentioned the word that I wanted to stress, education. This has been a great education, and there probably is no one in the medical field who is better able to give us such an education than Dr. Walters. Other members of the Committee might be interested to know that I think he was quite influential in establishing a television program in London for doctors, which keeps them educated.

**Dr. Walters:** I would like to correct that right now; it was another doctor but the same university.

**Mr. Stanbury:** I know that you were involved in it. This has been one of the best presentations we have received because it has been presented as an educative process. I think we all have gained something from this. However, we do not know yet what Dr. Walters and his organization recommend in the form of legislation in this field. Perhaps he could briefly tell us whether he feels the law is adequate as it is, or if it should be changed, how it should be changed.

**Dr. Walters:** As I said, we came here to present facts. We have discussed the law and I think there is a need for a change. It is a confused law and it has been a confused law. It leaves doctors in a difficult position when anyone wishes to press charges that this was an illegal procedure. I think most doctors in Canada and most of the legal profession accept that part of it. How you are going to change this law is something that disturbs many of us.

I think the omnibus Bill, which has already been submitted, extends it into a field which is going to be very difficult to interpret, and I would submit that we are getting out of a frying pan into a fire. "Health" as defined by the World Health Organization or by a final

year medical student on an examination paper, entails a tremendous area—economic, social and emotional.

You are attempting to write a law that will define "life"—and "life", I think, can be defined much more easily, than "health"—and the extension of this into the health area is going to leave it very, very wide. Again, it is going to come down to interpretation of what you mean, what we in London mean, or what somebody in Ottawa means by "health". You are going to have cases in the courts, or cases published, in which precedents will be set. This is going to be the problem in including "health" as well as "life".

• 1210

**Mr. Stanbury:** Who do you feel is best qualified to judge when there is a medical indication for abortion—using the word "medical" in its broadest sense, including psychiatry, and so on?

**Dr. Walters:** I think the medical profession will have to do it.

**Mr. Stanbury:** One approach that has been suggested in other jurisdictions is for health authorities in the province or, in fact, within the medical profession, to establish norms for these indications—rules for the performing of abortions in hospitals. Would this bring the problem within the context of medical decision in the way that you desire?

**Dr. Walters:** This is not a black-and-white situation as you, I am quite sure, will understand. It is grey in many areas. There is difference of opinion in the medical profession. When you have a group discussing this in a specialty, or in a multi-specialty—the general practitioner group—you have differences of opinion on a purely medical basis. If it could be established only on the life of the mother being endangered there would be much firmer solidarity.

As soon as you get into health you are into a very grey area again. Therefore, on the basis of danger to the life of the mother you may be able to establish committees that would draw up certain criteria for abortion.

**Mr. Stanbury:** Whatever the law is as it is now, or as proposed in the omnibus bill do you feel it would be desirable to have some procedures and rules set down by provincial health authorities, hospital boards, or the

people actually supervising the health facilities, rather than leaving it entirely in the Criminal Code?

**Dr. Walters:** At the present time, as you know, there are committees set up to review these. They set their own rules locally.

Perhaps Dr. de Veber would like to speak on this; I am just part of the committee. One of the concerns our committee had was on the composition of committees; this was one of the aspects that we did wish to discuss.

**Dr. de Veber:** Again from my point of view of being concerned about the foetus being a human and an individual, I would be quite concerned if its fate were to be decided by persons who were not immediately involved with either the care or therapeutic abortions. In other words, I feel that any committee making the final decision about therapeutic abortions would have to have a majority of doctors who were actually doing the abortions. If the committee were so composed there would not be any great danger of widespread abuse of the law.

If the decision were made by people quite detached from the problems of the baby's mother you might have the social-economic factor becoming the major deciding factor in therapeutic abortion.

**Mr. Stanbury:** I just want to clarify what I was asking. I assume that you are in favour of therapeutic abortion committees, if there is to be any therapeutic abortion.

I am now interested in knowing whether or not you feel that it would be desirable to have some general regulations set down by provincial health authorities, or by each hospital? If this approach were taken perhaps it would be more logical to have provincial health authorities responsible for hospitals lay down general rules on abortion procedures in those hospitals.

**Dr. Walters:** I think health is fairly well established in our constitution as a provincial matter, and the details of health supervision usually lie within this area.

At the provincial level, and, I think, at the federal level, this could possibly be worked out by special committees of public health working with maternal mortality committees appointed by the divisional sections of the

Canadian Medical Association. This would be a logical way to have an overall pattern established.

Is this an answer to your question?

**Mr. Stanbury:** Yes. You feel this would be helpful in achieving the safeguards that you are concerned about?

**Dr. Walters:** Part of the recommendations of the CMA were concerned in this area; that certain limits be placed on who is going to do them, and where.

In one of the submissions I was partially shocked and partially amused by a witness stating that this is a simple procedure; that there is no reason for the girl's having to wait for a board to decide; and that it could be done in a doctor's office. I submit that if it did happen the doctor's office would not be fit for occupancy for several weeks afterwards. This is a very, very serious procedure when it is done; it is a major operation. To suggest before a committee of the House that this be done in a doctor's office, under proposed legislation—I have no comment.

• 1215

**Mr. Forrestall:** I have two questions, Doctor. First of all, in the interim report and in the Justice Minister's presentation of proposals in the House the term "life or health" is used.

Evidence that we had last Thursday indicated, at least to some of us, that perhaps we should have said "life or life expectancy". Would you comment on that? I presume you are familiar with the evidence that we heard last week.

**Dr. Walters:** Only through the *Globe and Mail*, which was erroneously reported, Mr. Chairman.

**Mr. Forrestall:** I thought that through personal contacts with the principals involved you might have been aware of it.

**Dr. Walters:** I have not had an opportunity; but I would be interested in actually what was said, from accurate reporting, which fortunately we have in *Hansard*.

**The Chairman:** *Hansard* copies are not yet available.

**Mr. Forrestall:** I am aware of that. I was assuming that there would be a personal association with some of the principals.

**Mr. Knowles:** If the doctor thought it was erroneously reported he must know what was correct.

**Dr. Walters:** I know the man who reported it, sir, and I doubt if this was correctly interpreted by the press. Unfortunately, he is out of the country and I cannot ask him to comment.

Through you, Mr. Chairman, to Mr. Forrestall, the question of life expectancy is varied by many factors. The piece of paper you have in your left hand markedly, varies your life expectancy, statistically. The trips we take in a car can vary our life expectancy. This is something with which we take a risk. We decide to smoke in spite of figures showing that our life expectancy is going to be shorter. We fly airplanes by ourselves and pay the extra premiums, knowing that they are increased because of what we are doing. We do many things at the risk of our lives.

This, I think, is the difference. If we are talking about the life expectancy of one person being controlled by the death of another, or the possible death of another, this is where I start to question the values. Is it right to abort a foetus that might become a great prime minister, a great artist or a great musician on the basis of a mother whose life potentially may be shortened.

There is another variable here of which I am quite sure you are all cognizant and that is, again, the tremendous advances medical science is making. If we were holding this meeting a year ago, who could have predicted that they would be taking a heart and putting it in another person and having him live this long? So you are talking about the potential of a mother 20 years from now being shortened on the basis of killing a baby today and this is the point that I think disturbs us.

• 1220

**Mr. Forrestall:** Then, Doctor, if I can just sum up, what you are saying in the briefest term is that all we should do is consider what it is we are doing in terms of the life itself at the moment within the given scope of knowledge that you, as a disciplined practitioner, have.

**Dr. Walters:** I would say, yes to that in answer for the record.

**Mr. Forrestall:** It has also been indicated to us that no longer in the consideration of these things is it reasonable to argue that therapeutic abortions should be for or are necessitated by medical or psychiatric reasons; that indeed, in the vast majority of cases today there are socio-economic factors that come into this that really, once you get at the root of it, are the cause of the woman coming to ask for treatment. Has this been so, perhaps, in the opinion of either of you?

**Dr. de Veber:** Well, of course, again I look at these therapeutic abortions from a very narrow point of view and, being a bit cynical, I would have to agree that in most cases I have looked into, and they are mostly psychiatric, actually there is very little evidence that the woman is a real psychiatric case.

Now, she is very upset and worried and she may threaten suicide, and it may be quite alarming to hear the story, but when it is all over and done with it is obvious that she also does not want her baby, that there are other factors involved, and I think Dr. Tillman's brief points out that for strict psychiatric reasons you can really question doing abortions as a scientific reason. I think in most cases you could find many other factors. Would you agree with that, Dr. Walters?

**Dr. Walters:** I would agree. Again, there is nothing more tragic, really, than a girl who is upset because of a pregnancy she does not want but if these women are supported, if they are given the proper care, if you do not just give them an "out" by an abortion, they will change their emotions during the pregnancy.

It is that immediate time when they know they can have an abortion—and I think Dr. de Veber mentioned this—that you create an abortion environment or feeling that really, why worry about contraception or promiscuity? Virtue is dead; all we have to do is get an abortion and if we are upset, if we can convince somebody that we are upset about this, then we can have an abortion.

This is a climate and I think it is going to affect our generation and certainly the succeeding generations tremendously, so the decisions of this Committee I think are going to affect the moral aspects of the next generation and the generations to come. I think if

the girl has proper support—Dr. Tillman in his submission, and I have heard him talk on this on several occasions and we discussed it at length—points out that they do not suicide. As a matter of fact, the incidence of suicide is one-sixth of the non-pregnant women overall. A peripheral psychosis is something that can be treated without an abortion so that to abort somebody because they are going to get a peripheral psychosis after the baby is born is not a reasonable course of treatment.

• 1225

I think this is what we have to look at; we had better look at what the disease is, how we are going to treat it and what the result is so that the next time it comes along we can treat it more successfully or in the same way to get the same result. This, I submit, from our review of the literature and from publications of other eminent psychiatrists, has not been established.

We would not use antibiotics in the same way with the same results. We try it, the patient is still psychotic after the abortion or we use it on a patient and cause a psychosis. If we were doing this with antibiotics I am quite sure we would soon get rid of that antibiotic. So I think this whole area is tied up, as Dr. de Veber said, with social-economic factors which cloud the issue to the extent that psychiatry has to do something and they push them at us.

If you look at the variation in the incidence of therapeutic abortion over the world you will find that hospitals with the highest number of abortions are those with the most lenient committees. One hospital with 20,000 deliveries a year will do only a few for life saving reasons. Another hospital with 10,000 deliveries will do 40 times as many in a year and the difference is not in the incidence of these but the fact that everybody knows if you send somebody to that hospital they can be aborted.

This is a change in emotion or attack on the problem, and I think this is something that can happen over the whole country. It has happened in other countries and I support Dr. de Veber in the view that some members of this Committee should get figures or expressions of opinions from these other countries where they have been going on for a number of years.

**Mr. Forrestall:** That was my final question, to ask whether or not in your opinion there is real value in this Committee's seeking out some valid appreciation of the experience in the half-dozen countries where they have gone through the whole range from tight abortions through permissive abortions and now back to tightened circumstances. There must be very valid and reliable clinical evidence that would be useful to us. Is this so?

**Dr. Walters:** I think Dr. de Veber can reply to this.

**Dr. de Veber:** In the latest *Time* magazine, and I do not apologize for referring to it because it is a fairly good way of keeping up to date in many things, including medicine...

**Mr. Cowan:** A Canadian publication Mr. Pearson says is more reliable...

**Dr. de Veber:** I will not comment on that. I will just quote what is happening in Roumania where they state that because of concern for what has happened with abortion and contraception they have passed very stiff laws, so that both the doctor and patient in an abortion case get stiff prison terms, and the government makes it so hard to buy contraceptives that birth control pills have become an appreciated currency for tipping.

**Mrs. MacInnis (Vancouver-Kingsway):** As a supplementary may I ask the doctor what has happened specifically?

**Dr. de Veber:** In Roumania?

**Mrs. MacInnis (Vancouver-Kingsway):** Yes.

**Dr. de Veber:** Well, judging from this there have been so many complications from abortion, the birth rate has dropped to such a rate, there has been so much promiscuity and lax moral tone in society that the governments have decided they have to stop all this.

Now, you cannot take that one statement and make too much of it but it does indicate that some of these countries have had a lot of experience and must have analyzed this carefully to come to these very harsh conclusions. I think we should look more carefully at these countries.

**Mr. Forrestall:** It is important, in other words, that the Committee do look at this very carefully.

**Dr. de Veber:** Yes, I would agree.

**Mr. Chatterton:** Dr. Walters, you showed us that at nine weeks of age you can measure the heart beat of the foetus. Is there any kind of measurement that can prove or indicate that the mind of the foetus is working?

**Dr. Walters:** This is a research project we are working on very diligently but again it is the same problem; to get brain waves or electroencephalographic waves you have to get fairly close to the skull. Now, we are talking about a mass about so big with a foetus about the size of my thumb and getting a wire through close enough to the skull may seriously damage the foetus. The other problem is that the heart wave is so big by comparison to the electroencephalographic wave that it interferes, but I have no doubt that this is a coming thing. We will eventually have EEG's on foetuses of this size.

• 1230

**Mr. Chatterton:** Do you have them on an older...

**Dr. Walters:** Oh, yes.

**Mr. Chatterton:** At what stage do you actually have them?

**Dr. Walters:** I cannot give you an accurate time for the start of it, but certainly well before they are born. There are some current studies on the effect of sound and activity outside the mother on the brainwaves of the unborn child. There is some research going on in this area.

**Mr. Chatterton:** Are these called EEG's?

**Dr. Walters:** Electroencephalographs, yes.

**Mr. Chatterton:** Do they distinguish between a brain just working, say the brain of a human compared with the brain of, say, a fish? Do they indicate something more than a function going on?

**Dr. Walters:** A thought?

**Mr. Chatterton:** Yes, a thought rather than merely a chemical or physical process?

**Dr. Walters:** In the unborn foetus I cannot tell.

**Mr. Chatterton:** No, but comparing, say, humans with fish.

**Dr. Walters:** The brain patterns of the adult fish compared with the human can be distinguished because you can ask somebody to

think about something. Maybe this is just a matter of knowing how to ask the fish to do this; I do not know.

**Mr. Knowles:** What about the porpoise?

**Dr. Walters:** I was just going to mention that, sir. The porpoise, they feel, has a very highly developed brain and can think and they can get brain waves showing thought. We are interested in what the brain wave pattern will be with stimulation by sound showing this very difference, but I do not know any publications yet. Perhaps Dr. de Veber does.

**Dr. de Veber:** Well, I had a note somewhere that someone had detected brain waves in a 10-week fetus, but I could not find the reference so I did not want to mention it. But I do have a note that this has been done. Now, I do not think you could tell the difference between a human and certain animals so far as the brain wave tracings are concerned. As Dr. Walters said, you would have to have a fairly mature adult or an older child that you could subject to very subtle questions, and then you could get differences. But at this early stage I would say no, you could not distinguish.

**Mr. Chatterton:** Would that slide of the child sucking its thumb at 18 weeks be simply a physical response because of some discomfort, or would it be indicative of a mind working?

**Dr. de Veber:** I do not think anyone can answer that; it would be impossible to answer. But we can say that they react to pain and move around, and in the movie I had hoped to show an X-ray section showing a baby breathing and moving which would not have showed up. But what goes on in the mind no one knows.

**Dr. Walters:** This is the suckling reflex, which is a reflex, and some psychiatrists say we smoke pipes for the same reason and that this is an extension into our adult life of the oral eroticism reflex.

**Mr. Forrestall:** I have a pipe in my office, sir.

**Dr. Walters:** Or cigarettes, sir.

**Mr. Chatterton:** Mr. Chairman, if I may just comment, certainly the evidence given has made me and, I am sure, many members

of this Committee think of this problem in a different light. I appreciate very much what you gentlemen have told us. Thank you.

**Mr. Rock:** Dr. Walters, you said there is a difference psychologically between the feelings and the plight of a pregnant married woman and a pregnant single woman.

**Dr. Walters:** Usually; not always.

**Mr. Rock:** Well, do you feel that when a single girl is pregnant she has a lot more problems than any married woman would have if she does not want to have that baby? It is easier for the married woman to have it; there is no tragedy in life itself. There is the social aspect of it; a single girl's life and future will not be the same, exactly, as a woman who is married. For a married woman there is no shame, as society today considers it, as there is for single girls.

• 1235

**Dr. Walters:** You ask about their feelings; from my own experience in dealing with married and unmarried pregnant girls some are very happy that they are pregnant in spite of being single. So, again, you cannot make a blanket statement for all of them. I think the social milieu that we live in may make a difference, but basically they are women and they have a pregnancy and this came of love in most cases, so that their feelings are as women.

When you get into what they are going to do with it, or what society is going to do with them, this becomes a non-medical argument. We are taking them on for medical treatment, and Dr. Tillman, I think, showed in his conclusions that he has never seen—and I never have—an unmarried girl who carried her pregnancy to term develop a post partum psychosis. But he has seen girls who have had abortions because they were unmarried develop post partum psychosis.

**Dr. de Veber:** May I comment on that? I think it is a common misconception that the women who are going to the back street abortionists are unmarried women who are quite disturbed about their state. And yet, again, figures suggest that at least 60 per cent of these women are married. I think the most striking example was in a motion picture called "Alfie" which I happened to see. Here were two pregnant women considering abor-

tion. The unmarried girl did not have an abortion. The most desperate one was the married one; she was really desperate and she did get an abortion.

So I think the married woman can be even more desperate at times than the unmarried woman.

**Mr. Rock:** You mentioned the statistics in Sweden in respect of the unlawful abortions which were on the increase after the introduction of lax laws permitting women to go to a board and request to be aborted. You said that the statistics showed there have been more illegal abortion since that time.

Do you not feel, then, that because they have this board most women go to the board first and, therefore, they have statistics of the ones who were refused? Then there is a follow up to see whether some baby was born after and reported as born. They might find out that in many cases no babies were born. Therefore, some persons must have had abortions.

In this country we cannot compile statistics like this, and this is the reason why they showed an increase over the past statistics they had. But this is not proper, because before this law came about, they did not have any real knowledge of the number of illegal abortions performed in that country.

Therefore, in this country we also at this time do not have proper statistics on how many people go to the back room abortionists, but you feel there is an increase. But is there really increase, or is there a decrease?

**Dr. Walters:** There are several reasons why we feel there are these increases. I was talking to an obstetrician in Sweden just within the last two months about this. At first they allowed anybody to come to their country to have an abortion; they could appear before their board. Because of the tremendous numbers of people who were coming from all over the world, they have now had to limit this to only Swedish citizens.

This is the first step in cutting back. Setting up boards or setting up social approbation for abortions does not mean that you are going to reduce them, because the main reason a girl, married or unmarried, wants an abortion in many cases is secrecy.

Now, she has to go to a board, she has to go to a hospital, and this a very difficult thing

to keep secret. As I said, these are major operations; they are posted on the operating room list. Their names have to be there, their names have to be on a chart. They have to go through a whole record system. There are hundreds of people in a hospital who have access to the names of people and what the diagnosis is. As a matter of fact, the government makes us put the diagnosis on in a number of laws.

• 1240

Secrecy is the main reason, and I think you will never, by this kind of legislation, cut down criminal abortions. You cannot take the secrecy out of it. I do not know any way you could.

**Mr. Rock:** Yes, I think this is one of the big problems in our own country, doctor, and any legislation we bring in is not going to prevent illegal abortions. They will continue and continue.

**Dr. Walters:** We think it will increase because it will create a feeling in young people that promiscuity is acceptable because society says if a woman gets pregnant she can have an abortion, but not all of these women are going to be able to have an abortion. We think, looking to the future, there is going to be an increasing number of people who will try promiscuity or will embark on promiscuity in the hope that if they get caught they can have an abortion, but not very many of these cases would be acceptable. They are not acceptable in Sweden and they are not acceptable in England unless these certain rules are adhered to. Abortion on demand cannot be obtained in either of these countries under their new laws. England's law has not come into effect yet, but it does not permit abortion on demand.

You are going to create a society that thinks the law is going to get it out of its trouble if it gets into it, but this is not going to be so. Women are going to be left with pregnancies they cannot get rid of except in the conventional manner, and that is an illegal abortion. I think there is going to be an increasing number of illegal abortions rather than a decrease based on the pure and simple fact of secrecy and just the change in emotion concerning this.

**Mr. Rock:** Doctor, you must admit, though, that with the oral contraceptives—the pill—now available there will be fewer pregnancies than there have been in the past and possibly there will be more promiscuity because of the pill. I recently read somewhere that 18,000 Canadian women are using the pill.

Do you feel because the pill is not as readily available to single girls as it is to married women—I do not know if it is or not—that this problem of a lot of young girls getting into this trouble will still exist?

**Dr. Walters:** Again I come back to the point that if you have proper education, both for the married and the unmarried and family planning clinics, such as are established now in many of our large cities, available to anybody, then I think you are going to have less problem with an abortion decision. This is the approach we think should be emphasized. We should not start to worry about a pregnant woman with a cardiac condition when she is ready to deliver, we should attempt to see her early in her pregnancy, have her recognize the problems and medically treat her so the risk can be reduced.

I think the same principle should apply to contraception. We are talking about a different problem here in that there is no foetus. We are not talking about killing a foetus, we are talking about preventing one and I gather this is within the terms of reference of your Committee—at least there has been some question whether it is. I think this should be the area to emphasize. Do not kill the foetus; educate in family planning so these women will not have to come to us for abortions.

**The Chairman:** Before we pass to the next witness, is it agreed to print today's brief as an appendix to today's proceedings?

**An hon. Member:** Agreed.

• 1245

**Mr. Knowles:** Mr. Chairman, my questions parallel those that have already been asked. I suppose they attest to the clear-cut way in which the witnesses have presented their case, but I would still like to ask two or three questions.

You gentlemen obviously have followed the minutes of this Committee very closely and I am sure you are aware of the fact that other witnesses have appeared before us—both medical and ecclesiastical, to be specific—who

have taken a position just as strong as yours to the effect that the foetus is living, and yet have felt there were rights on the other side that had to be respected. We have had doctors take the position that the foetus is alive and yet they feel there are medical indications for therapeutic abortion. We and the Anglican Church of Canada take a very strong position that it is life and yet they also took the position that the right of the mother—the right of the pregnant woman—to life and to health was important. I have the feeling that in your effort to make one side of the case you have neglected to make the other. I realize that Dr. Tillman's part of the brief—is that being printed as well, Mr. Chairman?

**The Chairman:** Yes, it is.

**Mr. Knowles:** —It deals at least with the psychiatric side of things, but would you not admit, even after you have convinced us of something we already accept, that we still have this problem of the right of the pregnant woman?

**Dr. Walters:** I think she has a right to life and this is something the medical profession accepts in treating any patient—she has a right to life—and we do everything we can to maintain that life. However, when it comes to health we try to institute certain directives—some of them medical, some of them towards social or financial help through the agencies available to us—to change the environment in which she lives and to change her mental approach towards her problems. We have tried to follow and read the submissions—it is a voluminous subject—but I think the idea of effecting social reform through abortions is unacceptable to me either as an Anglican or as a doctor.

**Mr. Knowles:** Without getting into the field of social reform, social economic conditions and so on, is it not fair for me to ask you this question. You said "Yes, a woman has a right to life", but does she not have the right to health even though that may be a difficult one for the medical profession to sort out? Let me pursue this just a step further. If it is clear that a woman's life is going to be shortened, I take it you would regard that as a medical indication for therapeutic abortion, but is it not equally true if a woman's health during the time she is alive is going to be affected that she has a right?

**Dr. Walters:** Mr. Knowles, that is a difficult question to answer because the definition of

"health" is so wide. I think we are dealing in semantics here. I know what life is, but I am not sure what health is.

**Mr. Knowles:** But if you ask the woman who does not have it she will tell you.

**Mr. Cowan:** Is pregnancy ill health?

**Dr. Walters:** No, I think it is a physiological state.

**Mr. Knowles:** I agree with that.

**Dr. Walters:** Very healthy.

**Mr. Knowles:** I agree.

**Dr. Walters:** And I would say for an unmarried girl, in many cases, it is the most healthy thing that can happen to her. She suddenly realizes what life is all about and what her parents have been telling her, what society has been telling her and what she has been reading about had happened to her. She comes out of it a very mature girl with the knowledge of what the whole thing is about and that she is a woman who can bear life and she has to live up to this for the rest of her life.

• 1250

**Mr. Knowles:** I am sure that all of us men realize that pregnancy is a very healthy state for women. I was not questioning it as a matter of illness, I was questioning the effects later. There is no use taking up time as we have stated our position. I welcome your presentation this morning, as others have done, but it seems to me that in your concern to make one side of the case you have not quite recognized the problems on the other side.

I have one other question. I think Mr. Stanbury asked it but may I try to zero in on it again? I think it is fair to say you do not like the present law as it is ambiguous and leaves doctors in a very difficult position. We had a doctor here last week who said as he did not like the present law and the choice was between it and Mr. Trudeau's bill, he would take Mr. Trudeau's bill. You do not like the word "health" in Mr. Trudeau's proposed amendment. Is there something in between? Have you any suggestions to make as to what the new law should say?

**Dr. Walters:** Mr. Knowles, I think the only point is that "health" is a very ambiguous term. I think it is fine for the legislature to use it, but somebody else is going to have to

interpret it. This is the problem with many laws. I think "life" is clearly defined. We all know what we are talking about and we can, as a profession, say that this woman's life is going to be lost.

We are into housing, we are into food, we are into education, we are into so many areas that we know very little about. We know it affects the life of the mother, but it is a very difficult problem to decide that you are going to snuff out one life for a nebulous thing called "health", which we all would like to have so that we do not lose our life.

**Mr. Knowles:** Do you realize that Mr. Trudeau's proposed law, while it talks about health, makes it a medical decision?

**Dr. Walters:** This is the problem. We do not know how to define it because it takes in housing, it takes in heating, it takes in sewage, it takes in all of these things, and this is something the medical profession has because of public health legislation, and so on.

**Mr. Knowles:** I guess we will have to find more money to enlarge our medical schools so that future doctors can get this education and all these other things.

Mr. Chairman, I will move on quickly. You seem to be worried about promiscuity increasing if we have what you call an abortion climate; yet you have already said that at the present time the people going for back-room abortions are married women to the extent of 60 per cent.

**Dr. Walters:** Yes.

**Mr. Knowles:** I suppose there could be promiscuity in those cases, too, but I was generally assuming that was not necessarily what you had in mind. Is this going to change that ratio? Does not the problem still exist for married women?

**Dr. Walters:** I think it does. In some of these cases I am quite sure it is not promiscuity; I think it is just a social problem. They do not have enough money, enough room, enough heat, and they have too many children. This is a problem of education and social reform. I think in other cases, there is a promiscuity aspect which is not disclosed.

**Mr. Knowles:** I have one last question. You talked about education, you talked about contraceptive pills, and so on. Do you think this whole study we are making may be overtaken one day by the "morning-after" pill, and there will be no more need for legislation?

• 1255

**Dr. Walters:** I know nothing at all about the morning-after pill, but I do know there are advances in all fields relative to conception control. I think it was Dr. Rock who said that probably the ultimate method of conception control will be found in accurately timing the date of ovulation, and will be available to Catholics and non-Catholics alike. Now, whether this is going to be acceptable to population control is another thing, but I think for thinking people who want something that the pills are not ideal. We know we have many problems with them. We have problems with almost every other kind of conception control but there are advances in immunology and chemistry which are working on this very diligently. Certainly what we now have is not ideal, but I have faith that something is going to come out of this which will be fairly acceptable.

**Mr. Knowles:** Thank you, Mr. Chairman, and I thank the doctors for their presentation this morning and for the emphasis on continued research and education.

**The Chairman:** Mrs. Rideout?

**Mrs. Rideout:** I do not think there is anything left to be asked, Dr. Harley, except I always have been very conscious of the fact that we must have, particularly for our young people, proper guidance counsellors to guide them. I am wondering, Dr. Walters—if I am not asking a personal question—how you feel about sex education being taught in schools?

**Dr. Walters:** Since it began for Canada in London, Ontario we are very much in favour of it. Our department began giving lectures to high school students in the city of London eight years ago. Other boards of education became interested in this; we sent tapes to them and the outline of our course of lectures, and I think the provincial health authorities then began looking at this in the educational department. It is now established in our schools and goes back to the primary grades, which I think is very important, not in sex instruction but in a basic understanding of what the body is and respect for it.

**Mrs. Rideout:** You say it was eight years ago when you began this. I am thinking in terms of the number of illegal abortions—and we really have no way of knowing how many there are, but I think if we knew it would be a rather shocking figure—and do you have any statistics to prove that there has been any

change in the pattern in your city, or is it too soon to tell?

**Dr. Walters:** There is a study going on right now. Someone in our department is correlating the figures on this very point. We hope that we will be able to see some improvement.

**Mrs. Rideout:** Well, it would be interesting to know if your program is going to have any significant effect.

**Dr. Walters:** Certainly through this they are coming to pregnancy, delivery and premarital examinations more knowledgeable and with more understanding of the whole; marriage vows, the rights of the child, and so on. We have individual opinions from parents and girls who have had the lectures and have subsequently been patients, but we have no correlative study, and this is what we are attempting to do so that we do not continue in a kind of a blind field.

**Mrs. Rideout:** I am glad I have had the opportunity to hear from both of you gentlemen. It has been a very good brief and very revealing to me. Thank you, doctor.

**Dr. de Veber:** I would just like to comment on that point. It struck me after watching the presentation by Dr. Walters that if this sort of thing is built-in to your sex education so that young girls growing up had a clearer view of what a foetus was, this would be one way to solve a lot of abortions. If young women seeking abortions, particularly the desperate ones who go to the backstreet abortionist, were really acutely aware of what they were carrying I do not think they would really be eager to seek an abortion.

**The Chairman:** Dr. Brand?

**Mr. Brand:** Mr. Chairman, along with the others here, I would just like to thank the doctors for the excellence of their presentation today, and assure them it has been very useful.

I would like to point out to Dr. Walters, however, that I must take issue with his statement that eight years ago in London they initiated sex education for Canada, because in my constituency it has been taught in the high schools for over 25 years. I would perhaps suggest that it has taken you a long time to catch up to the West which, of course, does not surprise me at all.

**Mr. Knowles:** Did you ever hear about Adam and Eve?

**Dr. Walters:** If Mr. Brand has any figures on the results I think we would be interested in having them if it has been going on for 25 years.

**Mr. Brand:** I think they have some figures, I do not have them available...

**Dr. Walters:** That is very interesting.

• 1300

**Mr. Brand:** ...but I am sure they are available. Mr. Chatterton brought up the one part which I thought you had left out of your brief. I can now understand why. It is the matter of electroencephalography.

You make the following point:

WHEN DOES HUMAN LIFE BEGIN?

The definition of human life depends on the finding of certain factors characteristic of life as opposed to death.

And you delineate six. Would you not agree that these six factors would also fit any other form of mammalian life?

**Dr. Walters:** Yes, I would.

**Mr. Brand:** Then how do you separate human life from other life?

**Dr. Walters:** These are present inside a human, from which a living baby is born. If they are present inside the uterus at this stage then they are human.

**Mr. Brand:** You did make the statement, though, Dr. Walters, that this was true in adults as well. This has a very wide meaning nowadays, particularly with reference to, let us say, transplants—believe somebody mentioned heart transplants—and the importance of the person who can be kept alive with all the six factors listed here when electroencephalographic activity is used to determine whether or not life has ceased in that individual; is this not correct?

**Dr. Walters:** This is a very interesting subject and I am quite sure Dr. Brand knows the problems of the medical profession, the legal profession, and the clergy. The question you are asking is who is going to turn off the switch.

**Mr. Brand:** That is right.

**Dr. Walters:** This is something we have just discussed, and Dr. de Veber was in on a conference on this, what is life from the standpoint of the other extreme.

**Dr. de Veber:** I think you are quite correct that in some places the brain wave tracing is taken as sort of the final and absolute indication, and if there is no brain wave tracing then this condition is considered death. Now, again this is a bit tricky because on a few occasions there has been a short circuit in the machine and no waves were coming out, yet the patient was alive. So, it is a very difficult problem; you cannot just take one issue.

Again, as far as the business of "human" is concerned, if you have a human sperm and a human ovum uniting and reproducing, I cannot see how you can call this anything but human from then on, if that is an answer to your question.

**Mr. Brand:** I will not argue with that point, I just thought I should bring it up.

I did want to clarify, however, just a few very brief points.

You gentlemen do not agree with the CMA proposal?

**Dr. Walters:** The CMA is a voluntary organization, Dr. Brand. We have an internal health committee with representation from each division. They came to a conclusion that was presented on behalf of the Canadian Medical Association. I agree with part of the brief; I disagree with other parts of it and I submit there are divisions of the CMA that voted contrary to the CMA submission.

**Mr. Brand:** Do you believe there are any indications at present for a therapeutic abortion?

**Dr. Walters:** The problems we have already discussed of a medical nature I think can be treated, with the exception of carcinoma of the cervix and this, in my teaching and my experience, has been the only indication where treatment resulted in the death of the foetus. Now, this was not an abortion in the pure sense. The radium is placed inside the uterus and the foetus is killed by the radium but this is an effective treatment or surgery for carcinoma of the cervix. This is life-killing; we know the statistics on it; we know what happens if she goes on and in an invasive carcinoma of the cervix I think this is a warranted treatment.

In carcinoma of the breast again there is a great deal of the controversy whether by doing an abortion you are helping the woman or making her worse and if you look at the literature you can find almost equal distribution of opinion.

With leukemia and some of the other malignant diseases the therapy used sometimes kills the foetus. These are life-dangering or life-killing problems in medicine and I think there are indications here that you continue the therapy in spite of the fact that she is pregnant. These are my indications for it.

• 1305

**Mr. Brand:** So you believe there are a few, but they are very few in your view.

**Dr. Walters:** Very few.

**Mr. Brand:** I take it you do not agree with our interim report's suggestions about health. I know you have discussed this with others.

**Dr. Walters:** No; I do not agree with the health concept.

**Mr. Brand:** Would you agree with it if "health" were left out and "life" alone were left in?

**Dr. Walters:** Yes.

**Mr. Brand:** Do you not also agree, then, that the word "life", depending upon who was making the decision, could be given a much wider interpretation than perhaps some would agree it is?

**Dr. Walters:** I think this would be in the interpretation of the act. At least I hope it would be left to the medical profession to give advice about what is a life-endangering situation—not a full life, or a happy life or a wealthy life, but life.

**Mr. Brand:** But surely that is true of health as well, though.

**Dr. Walters:** Well, health I submit takes in all of these other factors.

**Mr. Brand:** It says, grave danger to the health. Surely you are not...

**Dr. Walters:** Loss of a job is grave danger to health. I am not sure this would be an indication for an abortion but it could endanger the lives and the health of the children in a way.

**Mr. Brand:** Do you seriously believe that doctors on an abortion committee would use these measures as well; that they would bring in as wide an interpretation as you are indicating?

**Dr. Walters:** I do; I do, sir.

**Mr. Brand:** That is fine. I have no more questions.

27763—3½

**The Chairman:** Mrs. MacInnis?

**Mrs. MacInnis (Vancouver-Kingsway):** I have been as impressed as everyone else by the very, very careful outline of the views of the doctors that we have been given this morning but there are several things that continue to bother me. I have some good friends who will not contribute to the Community Chest because they say we should have a form of society where the Community Chest is not necessary and consequently they do not believe they should contribute because that would be less than the best.

Now, we have not had any guidance or indication of what the medical people before us think should be done about this tremendous problem of illegal abortion with which we are faced now. We admit that we have not got too far in finding a solution ourselves, but we were hoping that some of you would be able to give us some indication.

We all are aware that a long-range program of education and the use of contraceptives and that sort of thing are helpful in the long-range, and probably the only solid thing for the future, but what are we going to do about this big problem of illegal abortion that is facing us now in this country?

**Dr. Walters:** Mrs. MacInnis, I think in the solution of any problem, certainly in medical research, first you have to delineate the problem. How big is it? How important is it? That is the first step and I submit this is what you are going to try to do.

I gather from accumulating statistics or visiting or interviewing people from other countries you are going to try to find out how they have dealt with it—which is the second step—to reach your proposed solutions to the problem and then test them. Having known the problem and worked out how you are going to do it you then have to prove that this was the correct solution.

Now, this is going to take some time. I think it is going to be up to you to decide on the solution. It is going to be up to the next several generations to see whether this is the proper solution and then perhaps there will be another committee or research to prove that this was effective.

I submit that you have some excellent experiments from other countries such as Russia and the countries behind the Iron Curtain that embarked on this with exactly the same premise—to limit illegal abortions, to

limit promiscuity, to control this by state control, and now we are getting more and more evidence that this was the wrong solution.

• 1310

It has taken them some years to find it, but are we going to take the same course? I am not sure this is as big a problem as we make out and I do not think that by embarking on a free abortion or abortion by choice we are going to improve it. I think we are going to create a society that accepts the proposition that life is cheap, especially if it is not seen or if there is some question whether it is a blob of protoplasm or has a heartbeat.

We already have a generation—ours—that is poorly informed, poorly educated. We have parents coming in with their teenage daughters demanding that we get this daughter an abortion. Money is no object. My reply is, "You have given her everything up to now except, perhaps, love. This is why she has turned to someone else for love and has this problem". They say: "But get us an abortion; get her out of the way; do not let our friends know, or our neighbours, or relatives". And when you ask them, "Do you really know what an abortion is?" they say, "Yes, it is just an egg in there, it is not formed yet".

This is from parents, so the teenagers of these parents also need education. Our society at the present needs it, not just the up-coming generation. I wonder whether it is as big a problem as we think it is? Some of our statistics, as Dr. de Veber said, already are showing that we have reduced our maternal mortality not only by education but by improved treatment.

**Mrs. MacInnis (Vancouver-Kingsway):** The point is this: the former Chairman of the Ontario Medical Association's committee on abortion gave an estimate of between 25,000 and 75,000 illegal abortions in Canada every year. Now, unless this is to be brushed aside completely, there is a very large problem. Am I to conclude that short of a program of education you doctors can suggest nothing whatever for dealing with this large problem?

**Dr. Walters:** Concerning the numbers, I submit that there are no statistically acceptable figures that we have been able to find, and it is going to be a very difficult thing to do because of the secrecy aspect.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes.

**Dr. Walters:** I would find it very hard to tell you how many of my own patients have

had abortions and yet I spend considerable time going into their past history. They do not tell these things. They do not tell their husbands. They are certainly not going to tell a Gallup poll.

**Mr. Cowan:** What about Kinsey?

**Dr. Walters:** I think this again is a sampling problem. It is a very difficult figure to get, and I do not know how you can get it. And until you know how big it is I do not think you can say it is a problem that demands a change in our whole social environment relative to the life of the foetus of the magnitude proposed by some of the people who say that this is the solution. This is the point that I am making. I really do not know how you can reverse the teachings of generations in relation to, say, an unmarried girl having a pregnancy. This is one of the problems. They have tried social approbation in Swen, where the State brings up the child and the parent is allowed to continue in school. They say there is no social disgrace associated with this, yet I think they are taking a second look at it. I do not know what the solution is, and I do not think either Dr. de Veber or our society really have a solution to this. We are just concerned with one of the solutions that people are proposing.

**Mrs. MacInnis (Vancouver-Kingsway):** Would you be willing to offer any comment on the likelihood of success or improvement, shall we say, in Britain as a result of the new legislation?

**Dr. de Veber:** Well, on the basis of statistics from other countries we would predict that there will be an increase in illegal abortions. Someone has pointed out how difficult this is because once it is liberalized or legalized it is easier to find out about them. So there is that factor. But if we just take all the other countries which have any statistics at all, this is what we would predict. Now, what happens, I do not know.

• 1315

**Mrs. MacInnis (Vancouver-Kingsway):** In other words, the only solution you see is to leave the law the way it is now and not change it at all. Presumably you would repeal that one dubious section and leave the one there that refers to "life." You would not favour, even in our fast-changing social conditions, modernizing or changing in any way the law which permits just the word "life" to be there?

**Dr. Walters:** I would support changing the legal interpretation of the law which we now have in our country and clarifying this so that it is legal to do an abortion under circumstances where the life of the mother is in danger.

**Mrs. MacInnis (Vancouver-Kingsway):** You would not like to leave it to the medical profession to make that interpretation on the basis of individual cases?

**Dr. Walters:** I think they would still have to do this but the law would be written with the word "life" in it. This is what I would think.

**Mrs. MacInnis (Vancouver-Kingsway):** If the medical profession is competent to take upon itself the responsibility of interpreting the word "life" why should the medical profession boggle at the word "health"?

**Dr. Walters:** Because I would submit we can interpret "life" but we cannot interpret "health".

**Mrs. MacInnis (Vancouver-Kingsway):** Who else can do it better?

**Dr. Walters:** Sociologists, psychologists and paramedical people. However, it still is up to a doctor to put a stethoscope on a chest and say, "this patient is dead". A psychologist cannot do it. I would submit, legally, it is up to a doctor, and before a death certificate can be signed in this country a doctor has to certify a patient dead. This is the definition of life, this is what we are trained to do.

**Mr. Knowles:** But two doctors might disagree whether or not a patient is going to die.

**Dr. Walters:** That is right, sir, they could.

**Mr. Knowles:** It is the same as disagreeing whether or not a person is going to have health.

**Dr. Walters:** No, it is not the same. I think health is a progressive state of living; life is an immediate one.

**Mrs. MacInnis (Vancouver-Kingsway):** Well, who would be better qualified to make that decision than the medical profession?

**Dr. Walters:** I think a number of people could. I think the doctor could give medical evidence concerning the life of the patient under such and such circumstances, but I would submit it is leaving too much to the medical profession to interpret the word "health".

**Mrs. MacInnis (Vancouver-Kingsway):** Is there anything to prevent having a board in a hospital comprised of these different professions who would know what "health" was?

**Dr. Walters:** Well, let us just think of this. Say, there is a board set up of doctors and the question comes up whether or not the health of this mother is going to be affected. They must know quite a bit about the construction of her house, the heating in her house and how much it costs her to live. The economists, psychologists and sociologists could help us with all of these factors, but it still is not a medical decision.

**Mrs. MacInnis (Vancouver-Kingsway):** No, but my point was that we had suggestions earlier from a legal fraternity who thought, given certain indications, that a decision on the termination of pregnancy should be made by a termination of pregnancy board on which there would be, as well as doctors, legal people and maybe sociologists and other community personnel. If the doctors are unwilling or backward—and naturally one can understand that—about making such a decision, what would be wrong with having such a hospital board made up of a psychiatrist, a sociologist or these other people who would sit in judgment on the health of the particular individual?

**Dr. Walters:** I would submit this has been done in history. The Nazis had such boards, and they dealt with adults.

**Mrs. MacInnis (Vancouver-Kingsway):** But this was with a view to ushering people into gas chambers.

**Dr. Walters:** It was done on economic and religious grounds. It was on the same basis, that of health. Some of these people were eugenically unsound; they were cripples or they had some hereditary illness that they felt should be snuffed out. And they did have sociologists and psychologists on these boards.

**Mrs. MacInnis (Vancouver-Kingsway):** But because a distorted psychopath or whatever you wish to call him got that kind of notion, that would not mean that it would be impossible, with totally different feelings and objectives, to make such a board viable. Would you not agree?

• 1320

**Dr. Walters:** I would submit that this is not a medical decision, this is a national decision.

**Mr. Allmand:** If we used the words "medical health", which would be limiting, would that help?

**Dr. Walters:** Well this again is affected by non-medical factors.

**Mr. Knowles:** We have more confidence in the doctors than you have.

**Dr. de Veber:** I think there is another problem though. I would think that most doctors who have been close to fetuses or unborn babies would look upon them as more human than perhaps sociologists and, therefore, they would shrink a bit in doing an abortion which they would feel was taking human life. I think most obstetricians that I have asked say they really feel they are taking a human life, and they would shrink at making that decision on social and economic grounds. If there is a strict danger to life and so on they are prepared to do that, but if you start extending it to other fields, involving the life of the fetus, then I think they would shrink from it. I think this is another factor that would make them unwilling to accept the responsibility.

[Translation]

**The Chairman:** Mr. Matte?

**Mr. Matte:** In French?

**Dr. J. Walters:** Excuse me...

**Mr. Matte:** With modern technical development, do you foresee that in the near future we will have no medical reasons for having recourse to abortion in order to save the life of the mother? Certain doctors agree that the cases where pregnancy actually endangers the life of the mother are so rare that for all practical purposes, they do not exist.

[English]

**Dr. Walters:** I graduated in 1951. If I could chart the progress of medical research and advancements in this short period of time, we started off with no antibiotics, we had deaths due to tuberculosis, heart disease, diabetes, kidney disease, for which an abortion was absolutely indicated. We had to learn this from our professors, we had to prove we knew it in an examination, and if we did not know it we probably did not graduate. So in 17 years those have been wiped off as causes for a therapeutic abortion. What the future is going to bring, I do not know, but it is moving much faster now than it did in the first

five years of those 17. The last 10 years have seen phenomenal growth in electronics, in the internal problems of the body, and I would submit this has been extended in the last three to four years to the internal environment of the unborn child and the problems connected therewith. So I would think it is well possible in the future that none of these patients will die of these medical diseases because of the advances we have made and are going to make. Does this answer your question?

**Mr. Matte:** Yes. Thank you very much.

**The Chairman:** If there are no other questions...

**Mr. Allmand:** I would like to have clarification of one point that was raised.

Doctor, you say that an abortion is a serious operation.

**Dr. Walters:** A major operation.

**Mr. Allmand:** A major operation; we had doctor witnesses who said that in the early stages of pregnancy a D and C type operation was probably six times less serious than a tonsillectomy. In the early stages of pregnancy is, or is not, a D and C type of operation a major procedure?

**Dr. Walters:** We are talking semantics again. An abortion can be a clearing out of the products of conception, which have already died and been partially passed. This is the so-called incomplete abortion. You can also start with a pregnant uterus and initiate the abortion. This is the therapeutic abortion. I would not accept from anybody that a therapeutic abortion is a simple procedure. It just is not a simple procedure; it is a major procedure. The blood is grouped and crossed. They lose a tremendous amount of blood. They can get perforations of the uterus. They can die.

**Mr. Allmand:** Even if done in a hospital by a skilled surgeon?

• 1325

**Dr. Walters:** Yes, sir. In training we grade our responsibility of teaching on the basis of how difficult the procedure is. This is one which a final year trainee, who is just about ready to go into practice, is given the responsibility to do, with a staff man beside him. On the contrary, a D and C is a relatively simple operation which a junior man is trained to do.

**Mr. Allmand:** How does it compare with a tonsillectomy? We had a doctor who said that it was simpler than a tonsillectomy.

**Dr. Walters:** I do not remember that in the briefs. I do not know what his training and experience have been, but this is just not so. A therapeutic abortion is a major procedure. A tonsillectomy is done in small hospitals throughout the country with, in some cases, relatively untrained anaesthetists, for instance. One would never undertake to do therapeutic abortion without the assistance of a full staff, good anaesthesia and a proper work-up of the patient to ensure that she will not die on the table. Tonsillectomy patients go in and, in some cases, are given a minor preparation and work-up and have a relatively simple anaesthesia procedure performed.

**Mr. Allmand:** And the D and C operation...

**Dr. Walters:** ...is just a scraping of the lining of the uterus. This is essentially what the abortion is, too, but this is a large, pregnant uterus. It is soft and very, very bloody and hemorrhagic, and the neck of the womb has to be dilated up to get the fetus out. This sometimes tears into the tissue and causes serious bleeding.

**Mr. Allmand:** Can the D and C operation not be used for an abortion in the early stages?

**Dr. Walters:** This is what it is; but I submit that it is a very different kind of D and C from the simple D and C, where an outpatient, for instance, goes in for a diagnosis of cancer, or because she is having irregular periods. This is a relatively minor procedure, because she is not pregnant. When she is pregnant you do the same procedure.

**Mr. Allmand:** And when she is pregnant it is a major procedure?

**Dr. Walters:** Yes.

**Mr. Allmand:** I see.

**The Chairman:** I might also point out that it is technically a more difficult operation. The tonsils are accessible and can be easily seen. In the other case this is not so.

**Dr. de Veber:** It should be added, though, that a tonsillectomy can, on occasion, be a very major operation.

**The Chairman:** Yes; that is so. I would not pass either of them as a minor procedure.

**Dr. Walters:** For hospital procedures purposes a number of family doctors general practitioners have privileges to do D and C's and tonsils. This is almost routine, I would think in most hospitals in this province. However, no hospitals that I know of would give privileges to an untrained, non-specialist to do a therapeutic abortion.

**Mr. Stanbury:** Mr. Chairman, I have a question of the Chair. I may have missed it, but I do not believe we have been told how the Committee proposes to get from other countries the kind of information which Dr. Walters has suggested is so important to us.

**The Chairman:** As a beginning, the Chairman is going to approach the Department of External Affairs. This is normal protocol. They, in turn, will approach various other countries for official statistics from their files.

**Mr. Stanbury:** Is the Steering Committee going to determine which countries should be approached? Several are mentioned here.

**The Chairman:** Yes; I think we have pretty well laid it down. If you wish to suggest others I would be glad to look into it.

• 1330

**Mr. Stanbury:** Having had experience of trying to obtain information from other countries through the Department of External Affairs I expect it will take many months. I thought perhaps we should get it started.

**The Chairman:** Yes; it is already under way.

**Mr. Stanbury:** Thank you.

**The Chairman:** If there are no other questions, I will thank Dr. de Veber and Dr. Walters for appearing on behalf of the London Society for the Protection of the Unborn.

I should remind you that next Thursday, February 1, because of the Dominion-Provincial Conference, the meeting will not be held here but in Room 112-N. We will have three groups before us at that time. The Association of Family Planning, Montreal, The Family Service Centre of Ottawa and the Family Institute of Montreal. All the briefs are in your hands, or should be by this time.

Thank you.

## APPENDIX "HH"

BRIEF TO THE STANDING COMMITTEE  
OF HEALTH AND WELFARE REGARDING

## ABORTION

## FROM

THE LONDON SOCIETY FOR THE  
PROTECTION OF THE UNBORN(1) *General Remarks*

L. L. de Veber, M.D., F.R.C.P.(C.), Assistant Professor, Departments of Paediatrics and Pathological Chemistry, The University of Western Ontario.

(2) *"When Does Human Life Begin?"*

Jack Walters, M.D., F.R.C.S.(C), FACOG, FACS, Professor of Obstetrics, St. Joseph's Hospital and The University of Western Ontario.

(3) *Psychiatric Illness and Abortion*

W. Tillmann, M.D., M.Sc., D.A.B.P.N., C.R.C.P.(C), Associate Professor of Psychiatry, St. Joseph's Hospital and The University of Western Ontario

Question 1—Is there any medical, scientific, sociologic or statistical information to show that changes in our abortion laws will really help to solve the problems that have been raised?

(a) *Pregnancy from criminal rape*—This is an extremely rare condition and pregnancy should be preventable if the rape is reported immediately. By making a rape a legal condition for abortion, one might anticipate an increase in the charges of rape as an attempt to obtain a therapeutic abortion for unwanted babies.

(b) *Abortion for defective children*—The only real common indication here is German Measles infection of the mother. This problem should be eliminated in the future since a vaccine against German Measles will be available within the next few years. There has always been considerable doubt that abortion for German Measles was medically sound. A recent article in "The Lancet" I think has settled this question forever. Fifty babies who were affected with the German Measles deformities were followed up at twenty-five years of age. These people are well adjusted in society and only four are unemployed. Their disabilities are relatively minor compared to other problems that are seen in medicine. In looking at this group, one really doubts the reason for even considering aborting them in the first place. Also since only 20% (twenty per cent) abnormalities occur in the first three months, eight out of ten babies being aborted for German Measles are perfectly normal. Certainly there are more severe deformities which can be predicted before birth. However, it seems a dangerous principle to be deciding which baby should live and which should die on the basis of certain defects. Is it not logical to assess the baby and the family at birth and

## GENERAL REMARKS

We appreciate that this Committee has been labouring long and hard for many months with a mass of material in attempting to study the question of the laws in our country with regard to abortion. The "Omnibus Bill" before the House includes changes in the laws which will allow therapeutic abortion for any of the conditions under which it is now done in hospitals. We sincerely hope that no further specific indications for legal therapeutic abortion will be added to the Bill.

We hope to avoid repetition of material that has been presented to this Committee before, and to concentrate on several important issues which we feel are still in doubt and should be settled before any final decision is made about abortion laws. Any changes in the law will affect our society for many generations if not centuries. If one accepts the aborted fetus as a human being, then the changes would affect potential generations of Canadian citizens.

then destroy it if the mother cannot cope with it? This is obviously unacceptable to most people but one wonders exactly what the difference is between abortion and euthanasia of the newborn. Also, although these defective children are often sorry sights, they rarely, if ever "suffer". It is the adults around them who suffer and want them destroyed.

(c) *Psychiatric Indications*—Psychiatric indications make up most of the therapeutic abortions done in our hospitals and this will undoubtedly increase in the future. Dr. Tillmann's section will suggest that there is no sound medical or scientific evidence to indicate that therapeutic abortion is a solution to psychiatric problems in pregnancy.

(d) *The Problem of Illegal or Criminal Abortions done Outside of the Hospital by unqualified Abortionists*

We would hope that the Committee by this time is convinced that widening of the abortion laws leads to an increase in out of hospital abortions. This is the consistent statistical and factual evidence of any country that has been studied after liberalized changes in abortion laws. The Swedish obstetricians who originally recommended changes in the Swedish abortion laws, realized that there would be no decrease in the incidence of out of hospital abortions. The Government of this country could do a great disservice to our citizens by creating an "Abortion Climate" through widening of its abortion laws. This could discourage attempts at contraception and give the impression that therapeutic abortions were easy to obtain. The Committee has been previously reminded by Dr. Cannell, that in Ontario, there have been no recorded maternal deaths from criminal abortions in the last two years. This undoubtedly is the result of a more efficient and aggressive campaign of contraception, sex education, and family planning in Ontario. This also indicates that the number of illegal abortions quoted for the country and Ontario has been grossly exaggerated, and that whatever the number is, it is probably decreasing as the years go by. One must either accept this conclusion or admit that the out of hospital abortionist is so highly skilled that his mortality figures are far superior to qualified doctors working in hospitals. The large majority of women seeking out of hospital abortions are married women who are perfectly healthy and mentally stable and simply want to get rid of their unwanted baby in secrecy. No changes in the abortion laws will help these

women and the answer is obviously prevention of pregnancy and not destruction of it. One should also be concerned about the high incidence of long term complications following therapeutic abortions such as sterility now being reported from such countries as Japan, Romania, and Czechoslovakia.

*Question 2—Precisely what happens when an abortion is performed?*

Are we simply removing a piece of tissue such as tonsils or an appendix so that we can discuss this subject dispassionately like any other operation? Or are we destroying a live human being which should have all the rights and privileges of any other person of our society before being condemned to death? We realize that this is a very difficult and complex question to answer but it seems hardly logical to discuss the question of abortion without coming to some conclusion about the status of the fetus.

It is obvious that some of us who are continually working with unborn babies and are quite familiar with them, have quite a different view than non-medical people and some doctors. Thus when most people approach discussion of abortion, they are deeply concerned about the mother who to them is a vital, live, human being, with problems requiring urgent solutions. They naturally pay little or no attention to the unborn baby since then cannot see it and since it is an unknown quantity that does not command their attention. However, from our point of view which is based on factual observation, these are vital, live, human patients whom we struggle with constantly to bring to survival and who become quite precious individuals. (Intrauterine Transfusion in Rh sensitization). We are now involved in a campaign to protect the unborn baby from Rh again emphasizing how these are truly human patients to us. It does not seem just or logical to ignore the fetus or unborn baby simply because one is not acquainted with it or does not have a clear picture of it. This raises several questions about the unborn child.

(a) *Is the fetus part of the mother and does she have the right to have it destroyed at her will?*

The fetus is a unique and distinct individual from the first few weeks of life with its own circulation and its own blood group, separate tissues, and by twenty weeks or even earlier, capable of existing outside the mother. This is not to deny that the mother is the supremely important individual in the life

of the fetus and that she is intimately connected with the fetus. However, to speak of the fetus as being part of her such as other organs is simply not logical or scientific. Similarly, it seems wrong that this unborn baby's fate would depend on the whim of the mother in the early stages of pregnancy, when so many women have mixed feelings about the fetus. Certainly the mother's feelings and decision are very important but surely the final decision should rest with the doctors. To illustrate this point of view, there is a study in Sweden of five hundred women who were refused abortions by the Abortion Board. About one-quarter of these women obtained illegal, out of hospital abortions. The other three quarters bore their babies and apparently showed no serious medical or psychological side effects afterwards. Thus, 375 babies would not have survived if the decision had been left to their mothers.

(b) *What is the legal status of the unborn child?*

Two Supreme Courts in the United States, Massachusetts and New Jersey, have awarded the unborn baby legal rights to property, inheritance, etc. Should they not have a legal right to life? Here we must mention the paradox where the arguments against capital punishment of criminals should support the protection of the right of the unborn child to life.

(c) *Can we decide that the fetus is human at some stage but inhuman at an earlier stage?*

This is the crucial and vital question which we feel has to be answered in dealing with the question of abortion. (1) Does the fetus become a human being at the moment of birth? This seems hardly logical since this may occur at ten weeks, twenty weeks, or forty weeks. There is nothing magical or mystical about the passage of birth process except for its independent circulation and breathing of air. In attempting to treat severely effected Rh babies early in pregnancy, in some centres now, the baby is partially removed from the womb, given a transfusion, and reinserted back in the womb. Can we say that this baby is human for the period that it is out of the womb and then becomes inhuman when it is back in again? (2) Is the fetus human when the mother can feel it kick and move? This is a very subjective assessment and would vary from mother to mother and we know scientifically that the fetus can move and react to pain long before the mother is aware of its presence. (3) Is the fetus human at the period

of viability? The problem here is that the period of viability is changing continually. At present it is usually assessed at about twenty weeks gestation. However, obviously as medical science advances, this period will become much earlier and it is also possible in the future that the fetus could be maintained outside of the mother from the very earliest weeks of gestation. Thus, again we are on slippery ground in attempting to award the quality of being a human being at the period of viability. (4) Does the fact that the fetus can cry after delivery before viability make it human? It is interesting to note the extreme reactions of people to the concept of the fetus crying after an abortion. It would appear that the very thought of this fetus being human is repugnant to them and it certainly is very disturbing to nurses and mothers when this happens.

Dr. Walters will present scientific evidence that the fetus is living well before the period when most abortions are carried out. Rather than making subjective and emotional guesses at when the fetus becomes human, the logical scientific and biological position is that the fetus is a human being at the moment of conception or at least shortly after this period.

(d) *Who will decide the fate of the fetus?*

We were unable to find anything in the new legislation or the old legislation which delineates who should be a member of a therapeutic abortion committee. One would hope that the majority of members on these committees would either be obstetricians or doctors who are performing therapeutic abortions. These are the men and women who have to perform the operation and it would seem quite wrong not to have their majority opinion in deciding cases for therapeutic abortion. Very few doctors who perform therapeutic abortions find it a pleasant task. Many of them have stated that they realize they are destroying a human life with the operation. On the other hand, if a therapeutic abortion committee was made up of non-medical personnel or physicians not involved in performing the operation, one might see a marked increase in therapeutic abortions particularly if the word "health" in the new Omnibus Bill is liberally interpreted.

## CONCLUSION

We are acutely aware and we sympathize with the various problems that occur in pregnant women which are being put forward as reasons for widening the abortion laws. However, on the basis of present medical and

factual evidence, we are not convinced that abortion is the answer to these problems. Further, if one accepts that the fetus is a human being at the time of abortion even with possibly a lesser status than the mother, then any widening of our abortion laws becomes a serious and critical matter. Because abortion seems an easy and convenient solution to many problems in pregnant women does not mean that they will be the right solution in the long run for these women in particular, or society in general. We hope that any final decision reached by this Committee or the Government will be based on a careful analysis of the facts and we hope to have helped somewhat with this presentation.

L. L. de Veber, M.D., F.R.C.P.(C).

#### WHEN DOES HUMAN LIFE BEGIN?

The definition of human life depends on the finding of certain factors characteristic of life as opposed to death. The factors are: 1. Heart beat, 2. Blood pressure, 3. Maintenance of body temperature, 4. Production of carbon dioxide, 5. Utilization of oxygen, 6. Respiratory activity.

These factors are measured by scientific instruments or observed in the examination of a patient. Physicians diagnose life or death on the basis of the above factors. It seems reasonable therefore to use these factors as a means to assess whether the previable fetus is living at the stage of development where therapeutic abortions are performed. The six factors listed above will be discussed in relation to the fetus of under 16 (sixteen) weeks gestation. What medical or scientific proof is there that a fetus of sixteen weeks gestation or less shows these signs of life?

##### (a) *Clinical Assessment*

The only recordable sign of life by clinical assessment is the heart beat. A stethoscope held over the pregnant uterus is able to transmit the sound of the heart beat and a physician or nurse may then record its rate. The sounds of movement of the fetus may also be heard as it kicks or moves its arms. At the four month stage of development this is possible in many cases.

##### (b) *Instrumental Recording of Fetal Heart Rate*

###### 1. *Electrocardiograph*

By the use of special instruments, the heart rate of the baby is frequently recorded prior

to the sixteenth week stage of development. The fetal electrocardiograph (E.K.G.) records the heart beat of the baby on a moving strip of paper for permanent record and an example of such a tracing is seen in slide No. 1.

###### 2. *Doppler Effect*

As the blood is pumped through the vessels of the baby's body by the beating heart, the movement of blood interferes with a beam of sound transmitted from an instrument and directed at the heart of the baby. This is the Doppler effect and a Doppler is an instrument to record the baby's heart by this technique, at an early stage of development. Such a sound will be presented on a recording from a 9 (nine) week old fetus.

##### (c) *Experimental Evidence*

A series of experimental recordings have been published by Doctor Westin and his colleagues in Stockholm, Sweden, based on research on the fetus at the stage of development under twelve weeks. These fetuses were obtained by therapeutic abortion or were spontaneously aborted and then the measurements of heart rate, blood pressure, respiratory activity, electrocardiograph, oxygen uptake and carbon dioxide production were recorded. The body temperature and weights of these fetuses are also shown in the enclosed graph.

The recorded data here clearly demonstrate that the previable fetus has life. The recording of the data in these aborted fetuses should demonstrate to anyone that life is present at this stage of development. The fetus has a heart beat, produces an electrocardiographic pattern, utilizes oxygen, produces carbon dioxide and maintains body temperature. The last fetus listed on the chart attempted to breathe when the carbon dioxide level in its blood ( $\text{CO}_2$ ) reached a level where the respiratory centre was stimulated. The human adult reacts in the same manner to this accumulation of carbon dioxide in the blood.

In the second slide a tracing from Dr. Westin's series shows the electrocardiograph, blood pressure tracing and blood flow of one of the fetuses.

In discussions before this Committee relative to changes in the abortion law for Canada, statements have been made that the fetus is a "potential human", "not living" or a "protoplasmic mass". The fetus on the con-

trary is living, is human and this must be taken into consideration in modifying the abortion laws of this country.

At the present time medical research is directed towards the salvage of low birth weight babies. In the future, the development of new techniques to maintain pregnancies threatened with premature labour or spontaneous abortion will be discovered. All these advances are based on the firm and scientifically established premise that the fetus is living in the stage of development under 12 (twelve) weeks. To think otherwise or to sug-

gest the contrary has no basis in scientific fact and should not be included or considered in the discussions before this Standing Committee. The decisions of the Committee are so important to the future of the country and the issues so difficult to delineate that clouding them by erroneous statements, not based on sound, established, scientific facts, is a disservice to this group. It was the purpose of this presentation to attempt a clarification of this point and we hope we have accomplished this end.

Dr. John Walters

TABLE I  
*Some Data on Perfused Human Foetuses*

Weight in grams	Age in Hours	Body Temper- ature °C.	Blood Gases (umbilical vein) Volume %		Heart Rate Per Minute	Blood Pressure in mm. Hg	P-Q Time in Seconds	Extra- corporeal Blood Flow ml./kg./ Minute	Oxygen Uptake ml./kg./ Minute	Respira- tion
			O <sub>2</sub>	CO <sub>2</sub>						
75	1.5	26°			80	60/53	0.14	43	0.53	None
100	6.5	26°	16-21	7-17	80	24/17	0.11	24	1.0	None
330	2.0	24°			67	—	0.13	12	—	None
	2.5	26°			88	47/32	—	20	1.2	
510	3.5	27°	22	19	84	46/33	0.12	20	—	None
	6.0	27°			72	46/40	—	17	—	
250	1.5	26°	15-17	52-54	74	43/27	0.12	46	0.63	Present

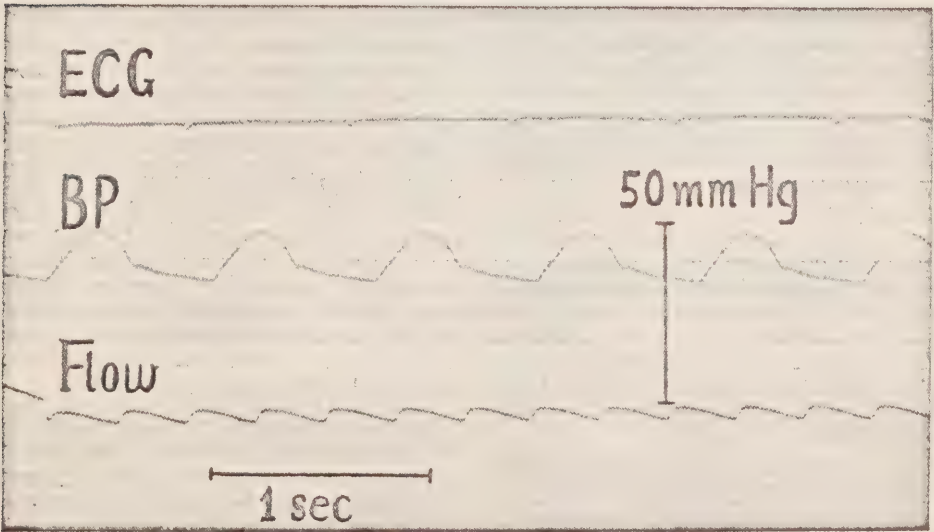


FIG. 3

Previable human foetus 3 hours and 15 minutes after birth. Weight 510 g., body temperature 27° C. Recording of I: ECG (lead I). II: arterial blood pressure. III: blood drip rate (25 drips/ml.).

## PSYCHIATRIC ILLNESS AND ABORTION

Some people in our society are insisting that there must be liberalization of our existing abortion laws. They are seeking to justify their positions on medical grounds. It now becomes the responsibility of medicine to examine the existing pertinent scientific facts to determine if one can support the contention that allowing a pregnancy to continue in certain instances is detrimental to the health of the person involved.

Medical boards have been set up in this country and many others to determine the advisability of recommending a therapeutic abortion. It is a known fact that the greatest single factor for which an individual presents for a therapeutic abortion is based on psychiatric grounds. In various series reported in the literature, psychiatric factors are listed as the principal reason in from 30-60 per cent of the cases submitted for consideration. In other words, it could be stated that psychiatric grounds are put forth more frequently than any other single reason in the application for a therapeutic abortion. It is in the role of a psychiatrist that I will attempt to bring forth, for your consideration the current scientific data reported in medical and psychiatric literature on the subject.

It is important to draw to your attention that sound scientific studies in this area are woefully lacking in the literature. It is quite likely that part of the reason for this lack is that in the past, and at present, most abortions being done are illegal and consequently are not reported. Consequently the beneficial effects or otherwise of abortion are not available for objective study.

A frequent psychiatric reason brought forward to justify legal abortion is that the mother's mental health will be seriously and likely permanently impaired should she be allowed to carry her pregnancy through to its natural termination. In response to this suggested possibility such questions as the following are important to ask, and to be able to answer with scientific facts, rather than sentimental guesses.

1. Is a puerperal psychosis (Nervous breakdown after pregnancy) likely to develop?
2. If it did what would be its outcome?
3. What are the chances of avoiding it by termination of the pregnancy?
4. What would happen if the patients, who according to present day practice would be aborted, were left alone?

5. What are the risks to the mother's mental health of a therapeutic abortion?

Studies on substantial numbers of cases of puerperal psychosis have been reported by various authors. The researchers reporting these findings in these areas show generally a common agreement that there is nothing significant in the pre-sickness history of these cases that could differentiate them from control groups of individuals suffering from psychosis not associated with childbirth. In other words, on the basis of the historical facts alone of the individual's life there is as yet no scientific data that enables one to say that this case will likely develop a puerperal psychosis whereas that one is not likely to do so and so on.

Scientific studies also report that the recovery rate in persons suffering from puerperal psychosis is high. In years gone by the condition was considered to be quite malignant but in recent years and very likely due to our advances in treatment the outlook in considerably more favourable.

A recent study reported by Myre Sim in the British Medical Journal is worthy of reporting on in some detail. He published his results of 213 cases of puerperal psychoses that were treated by his group. He also reports on a large number of cases that were referred to his care because of evidence of emotional instability early in their pregnancy. It was his opinion, and I quote "that because of the very favourable outlook in puerperal psychosis many patients who had a previous episode of this condition and who enquired about the risk of subsequent pregnancies were *not* discouraged and the vast majority had no trouble". He also goes on to state that patients who were referred for consideration of termination of their pregnancy because of emotional instability during pregnancy scarcely ever developed a puerperal psychosis. He states from his studies that "unless the presenting instability was of a psychotic, and especially schizophrenic nature one could confidently predict that a puerperal psychosis was most unlikely". This same author refers to another study by Ekblad—who found in a series of (479) cases who were aborted for psychiatric grounds that the psychiatrically abnormal cases find it more difficult than the psychiatric normal case to stand the stress implied in legal abortion. Another way of stating this observation gleaned from his scientific studies is that the greater the psychotic indications for a legal abortion are,

then the greater will be the risk of unfavourable psychic sequelae after the operation.

Another contentious area that is frequently presented to the psychiatrist for his consideration is that the presence of pregnancy greatly increases the risk of suicide. Reported clinical studies have shown that the incidence of suicide amongst pregnant women is approximately  $\frac{1}{2}$  of that amongst nonpregnant women in a similar age range. One can conclude from these studies that suicide is rare enough in pregnant women that it is not a serious point for consideration.

I have been unable to locate any studies reported in the literature of puerperal psychosis listed in unmarried women. I personally have never encountered such a case in my practice. I have occasionally seen cases of moderate to severe mental breakdown of the personality organization of the unmarried individual following an abortion.

#### CONCLUSION:

It seems to me that there is considerable pressure put on psychiatrists to disregard the clinical facts and to recommend abortion in order to satisfy a desire for social reform. Clinical studies suggest that pregnancy car-

ried to term does not cause mental illness, and consequently abortion is not a prophylactic against psychosis, but rather in some instances it acts as a precipitant. It appears that the question of abortion, at least from a psychiatric point of view, is more likely a socio-economic problem with the psychiatrist at present being exploited, since he provides the most convenient way around the legal situation.

I personally feel that prevention of pregnancy is a more realistic approach to the socio-economic ills rather than interrupting an existing pregnancy. I support the suggestion that the wisest disposal of the psychiatrist's time as it pertains to abortions is to advise as to who should *not* be aborted. I strongly recommend the institution of "psychiatric crisis clinics" where persons seeking abortions on psychiatric grounds might be referred without delay. Here they could be offered the opportunity of immediate psychiatric support and if indicated psychotherapy. I feel that this constructive activity in many instances will carry these persons through their crisis and in a large percentage of cases that these women will more than likely elect to carry on with their pregnancies.

Dr. W. Tillmann

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OFFICIAL REPORT OF MINUTES  
OF  
PROCEEDINGS AND EVIDENCE

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ALISTAIR FRASER,  
*The Clerk of the House*

(17)

HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1967-68

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STANDING COMMITTEE  
ON  
**HEALTH AND WELFARE**

*Chairman:* Mr. HARRY C. HARLEY

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MINUTES OF PROCEEDINGS AND EVIDENCE

No. 17

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THURSDAY, FEBRUARY 1, 1968

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Respecting the subject-matter of

Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

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WITNESSES:

*Representing The Family Institute of Montreal:* Mr. Roland Gosselin, of  
Douville, Que., President; and Dr. Suzanne Carreau, M.D., of Montreal.

*Representing The Family Planning Association of Montreal:* Dr. Michael  
J. Ball, Assistant Professor, Department of Epidemiology and Health  
at McGill University, Chairman of the Medical Committee of the  
Association; and Dr. Yves Lefebvre, Gynecologist and Obstetrician  
at Notre-Dame Hospital, President; both of Montreal.

*Representing The Family Service Centre of Ottawa:* Mrs. J. H. Craven,  
Vice-President of the Board; and Mrs. Meile Stern, Social Worker,  
both of Ottawa.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1968

## STANDING COMMITTEE ON HEALTH AND WELFARE

*Chairman:* Mr. Harry C. Harley

*Vice-Chairman:* Mr. Gaston Isabelle

and

Mr. Allmand	Mr. Forrestall	Mr. Orange
Mr. Ballard	Mr. Howe ( <i>Wellington Huron</i> )	Mrs. Rideout
Mr. Brand	Mr. Knowles	Mr. Rochon
Mr. Brown	Mr. Laverdière	Mr. Rock
Mr. Cameron ( <i>High Park</i> )	Mr. MacDonald ( <i>Prince</i> )	Mr. Rynard
Mr. Chatterton	Mrs. MacInnis ( <i>Vancouver-Kingsway</i> )	Mr. Simard
Mr. Cowan	Mr. Matte	Mr. Stanbury—(24).
Mr. Enns		

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

## CORRIGENDUM

PROCEEDINGS No. 11—Thursday, November 30, 1967.

*In the Minutes of Proceedings and Evidence—*

Page 330, second paragraph, lines 7 to 14 should read:

“I hope that Parliament does *not* pass an act that permits termination pregnancy boards, hospital therapeutic boards and this kind of thing so that we do not wind up in a situation of criminally induced abortions rising rather than going down, which obviously would *not* be the intent of the law.”

## MINUTES OF PROCEEDINGS

THURSDAY, February 1, 1968.

(20)

The Standing Committee on Health and Welfare met this day at 11.23 o'clock a.m. The Chairman, Mr. Harry C. Harley, presided.

*Members present:* Mrs. MacInnis, Mrs. Rideout and Messrs. Allmand, Brand, Brown, Chatterton, Cowan, Forrestall, Harley, Howe (*Wellington-Huron*), Isabelle, Knowles, Matte, Rynard, Stanbury—(15).

*In attendance: Representing The Family Institute of Montreal:* Mr. Roland Gosselin of Douville, Que., President; Dr. Suzanne Carreau, M.D., of Montreal.

*Representing The Family Planning Association of Montreal:* Dr. Michael J. Ball, M.B., B.S., B.Sc., D.P.H., Assistant Professor, Department of Epidemiology and Health at McGill University, Chairman of the Medical Committee of the Association; Dr. Yves Lefebvre, M.D., L.M.C.C., C.S.P.Q., FRCS(C), F.A.C.O.G., Gynecologist and Obstetrician at Notre-Dame Hospital, President; both of Montreal.

*Representing The Family Service Centre of Ottawa:* Mrs. J. H. Craven, Vice-President of the Board, and Mrs. Meile Stern, Social Worker, both of Ottawa.

The Committee resumed consideration of the subject-matter of Bills C-122, C-123 and C-136.

The Chairman introduced Mr. Gosselin who introduced Dr. Carreau; both made preliminary statements. Mr. Gosselin tabled, for the information of the Members, petitions and letters from intermediary bodies, associations and individuals supporting the brief of the Institute, also some articles on the subject of abortion.

The Chairman called on Dr. Ball who explained the purpose of the brief of the Family Planning Association of Montreal.

Mrs. Craven was called and made a short statement.

The representatives of the three groups were questioned.

*Agreed,—*That the submissions of The Family Institute of Montreal, The Family Planning Association of Montreal and of The Family Service Centre of Ottawa be printed as appendices to this day's proceedings. (*See Appendices II, JJ and KK*)

The witnesses were further questioned.

The questioning concluded, the Chairman thanked the witnesses for having presented the views of their groups, and at 1.25 p.m., the Committee adjourned to Tuesday, February 6, to receive the submission of The United Church of Canada.

Gabrielle Savard,  
*Clerk of the Committee.*



## EVIDENCE

(Recorded by Electronic Apparatus)

Thursday, February 1, 1968.

• 1125

**The Chairman:** Ladies and gentlemen, we have a quorum and we would like to start today's meeting now. I have no correspondence or any general remarks to make.

As you are aware, we have more than one witness before us today. I would like to introduce the three groups and ask each of them, as I told them earlier, to make a short statement on their brief. All the Members have had copies of the briefs in their possession and have had an opportunity to read them. Then the meeting will be open for questioning.

The three groups that will present briefs are the Family Institute of Montreal, the Family Planning Association of Montreal, and the Family Service Centre of Ottawa. I will first call on Mr. Roland Gosselin, representing the Family Institute of Montreal.

[Translation]

**Mr. Roland Gosselin (President, Family Institute of Montreal):** This is the way in which we propose to present our brief. First of all I would like to give a short history of the Family Institute of Montreal and then I will introduce myself. I will also introduce Dr. Suzanne Carreau who will read part of the brief. As to language, I will make my presentation in French and if need be I will answer questions in English in order to ensure a better understanding but so far we are confident that the interpreters as well as the translators will give the gist of our remarks.

The Family Institute of Montreal is a group of family organizations within metropolitan Montreal comprising 12 groups whose immediate aim is family education and which work according to certain particular methods.

The Institute was founded in 1965—that is in the fall of 1965 after two years in the making and has been operating since then. I was the founding president and I am still president perhaps because no one wants to replace me.

The Institute itself has two main objectives. First of all, to bring about liaison between the member organizations; and its second objective is to give representative strength to the family institutes of Montreal.

As President, my name is Roland Gosselin; I am manpower counsellor at the Manpower and Immigration Department of the federal government and I am the temporary manager of the Manpower Centre at Belœil, a sub-office of St. Hyacinthe.

As concerns education I studied philosophy and obtained my degree in philosophy.

As for my work, I was always an administrative secretary until I became a manpower labour counsellor.

Mrs. Suzanne Carreau is a doctor. She studied medicine at the University of Montreal and graduated in 1962. Then she worked for one year at the Montreal Health Department. Though she does have an official title, she is a family organizer, working on sex education and family planning with young people and also with adults. She is married, she is 31 years old and she is the mother of two children. In Montreal she is often asked by students or universities to give lectures either with her husband or alone on family planning and sex education. As a couple, they are National Vice-President of SERENA which is an educational service for birth control on the national scale.

I have a few corrections to make in the English text. Could I do this now, Mr. Chairman.

In the English text, on page 3, second paragraph, last line the word "materialize" should be replaced by "emerge". Another correction will be made later on by Dr. Carreau as to the biological concept of life.

After presenting our brief, I will place before the Committee the various texts to which we referred and which you may have time to read. These texts support our position and we have based our opinions on them.

Also, we will give to the Committee the letters which we have received from every

corner of the Province of Quebec in support of our brief. Up to now, we have received the encouragement of four important groups and from fourteen individuals or couples. The important movements are: SERENA, the board of directors of SERENA's liaison centre, which includes about 350 couples.

**Dr. Suzanne Carreau (Family Institute):** ...teachers who reach about 5,000 couples a year.

**Mr. Gosselin:** Then let us say about 5,000 couples who have learned the temperature method of introducing birth control into their sex life. Another group is made up of the *Équipes Notre-Dame Canadiennes*, home teams of 350 couples. There is also a Catholic women's movement and a religious group. You will find these testimonies in the minutes of the meeting. Since you already have the text of the Family Institute of Montreal's brief on abortion, I will limit myself to presenting the basic argument which is more or less a continuation of what was presented last Tuesday by Dr. Walters and Dr. de Veber. We insist on the concept that life begins at conception, according to the biological development of the foetus. This position will be established by Dr. Carreau.

First of all, we feel it is important to distinguish between abortion and methods of birth control. It is obvious that the above-mentioned Bills Nos. C-122, C-123 and C-136 are being considered in relation to birth control.

The major reason which causes us to draw a distinction between abortion and birth control methods is that abortion affects a third person, whereas birth control methods merely control the effect of sexual intercourse between man and woman. Abortion has a direct effect on life, whereas birth control governs only the faculty of the couple, fertility.

For various reasons, pregnancy may give rise to numerous family and social and economic problems. We recognize the seriousness of these problems but we do not agree that the solution lies in abortion, for the very reason that we cannot place the burden of the responsibility on the unborn child, which has an undeniable and inalienable right to life. Society is responsible not only for the difficulties in life today and in the future, but is also responsible for the very life of the generation to come. Social solutions may be varied: more effective methods of family planning and

motivation for use of this method, the legal status of the unwed mother; the family court; the legal recognition of every child; the system of family allowances in proportion to dependents.

I will now ask Dr. Carreau to present the only reason for which we feel abortion should be allowed: that is, when the mother's life is in danger, which is based on the fact that life begins at conception.

**Dr. Carreau:** When we ask if the foetus is human, the reply depends on the idea which we have of human life. Some people consider humanity as an accomplishment, as the full maturity. Many people who are so-called adults never reach this stage. Are we ready to grant those who think they have achieved maturity the right of life and death over other human beings.

Other people feel that every person has certain potentials in addition to the actual characteristics which have been developed, and that is only the ratio between these two elements, potential and the characteristics already developed, which varies during the different stages between conception and death. For these people, the individual and unique characteristics which each person acquires at the very moment of conception establishes his status as a human being in development even if nidation and continuation of the pregnancy are necessary for its nutrition in the present state of our scientific knowledge. Since we believe that embryos and fetuses are human, we feel that it would be improper to leave to the arbitrary judgment of two people the decision on what benefits, what improved conditions for the mother, the family or society could justify the suppression of life within the uterus.

It is our opinion that these benefits and improved conditions should be achieved by other means which are less direct and not as easy to accomplish. We feel that we should use more imagination to make pregnancy easier in cases where it is difficult and to cause the child to be better accepted in cases where circumstances oppose his being accepted. Often these circumstances depend much more on society than on the person of either of these parents.

**Mr. Gosselin:** We will stop the summary of our brief here in order to direct more attention to two other points. The first point is my personal opinion. I am not speaking for the Institute here on the "Trudeau" Bill; secondly

a statement which we have obtained from a woman who went through an abortion and who spoke on Father Legault's program on the CBC, Montreal. This will allow you to hear the testimony of a woman who went through an abortion and the consequences that this abortion had for her. I think it would be difficult for the Committee to get a direct testimony of such a situation and so I think it would be a good thing for the Committee to hear it.

With regard to the "Trudeau" Bill, I find that this Bill is ill-timed, unacceptable and illogical. Ill-timed, because we do not yet know the results of the Act which was adopted about a year ago on the methods of birth control. As well, we find it unacceptable for the very reason that this Committee is still considering the question. It would be presuming on the conclusions of the Committee to propose a text for an act when study of the fundamental question has not yet been completed. As well, we feel it is illogical that such a bill should be proposed after another act which deals with respect for life, namely the abolition of capital punishment. On the one hand we give great importance to human life by adopting an act to abolish hanging. On the other hand, we are presented with an act which seems to be completely lacking in respect for life and which would make it possible to obtain abortions almost on request.

I would like to emphasize that there is a contradiction which does not remove any ambiguity from the present text. Page 21 of Bill C-195 concerns the repeal of Section 209 which gives as a reason: the life of the mother. On page 26 of Bill C-195, both the life and the health of the mother are mentioned. This constitutes another ambiguity in the texts. Since the text is ambiguous, we do not feel that it corresponds to the objectives of the Committee, at least not to that objective which concerns clarifying the act. I think that everyone is in agreement on this. I would like to make a suggestion. Section 207 should include the phrase: "Section 209 notwithstanding." In addition we suggest the adoption of Section 209 as amended by our Bill C-122, which is on page 7 of the French version of our brief, and on page 6 of the English version. Section 137 should take into account Section 209, and Section 209 should resemble the amendment to Bill C-122 which we suggest on page 7a.

Before going on to other testimony, I would like you to hear a statement which has been

recorded. This is recorded from a radio program where people can telephone in anonymously to give their opinions. No one knows who is speaking. You will hear a woman who is 35 years old, and who had an abortion when she was 20; she was not married at that time.

[English]

**The Chairman:** I think it is obvious that the tape is not clear enough and cannot be translated. I suggest you get a text of this and send it to us in French or English. We will have it translated and I will distribute it to the Committee members.

**Mr. Brand:** Mr. Chairman, on a point of order. We have an unidentified voice stating something we really do not know is fact or not and I wonder whether it would contribute to the hearings of this Committee. It is a question of propriety.

**The Chairman:** I do not think it would do any harm to send this text to Committee members and they can use their own discretion about whether they wish to accept it or not. It will not become part of today's *Minutes*. Is that agreeable?

**Some hon. Members:** Agreed.

**The Chairman:** Fine, thank you Mr. Gosselin.

I will now call on Dr. Ball who is representing the Association of Family Planning of Montreal.

**Dr Micheal Ball (Chairman of the Medical Committee of the Family Planning Association of Montreal):** Mr. Chairman, ladies and gentlemen, I should make it clear that Dr. Lefebvre and I are speaking as individuals, because if we were to represent the Family Planning Association of Montreal whose opinions we so heartily support we would be restricted in the scope of our recommendations, whereas by appearing as individuals we are able to go beyond the specific points of view of the Family Planning Association.

In presenting this brief, which is concerned with both abortion and birth control, we have divided it into two parts, one of which is concerned with criticism of the existing law on certain grounds and the other with the presentation of a very abbreviated breakdown of the abortion and contraception laws and practice in 27 European countries, together with some statistics relating to these countries and an interpretation of them.

Now, to the first part. We hope in presenting this brief to adhere as closely as possible to factual evidence and not to opinion. Our first point suggests that the present law regarding abortion and birth control is subject to criticism. The first point to be raised is that the law is not obeyed. We point out through our brief that various estimates available of the number of abortions that are practised are very difficult to verify but, on the other hand, the certification of this is very complete and the Dominion Bureau of Statistics informs us that there were 22 deaths ascribed to abortion in Canada in 1964 and this is a typical yearly figure. The analysis presented suggests that only one of these deaths was due to an operation carried out for medical or legal indications.

Since the majority of illegal abortions is not followed by a fatal outcome we must conclude that the numbers of illegal abortions are considerable.

The numbers of therapeutic abortions that are reported to have been carried out in the Toronto General Hospital over a 12 year period—and these figures have been published in the *American Journal of Obstetrics and Gynaecology*—indicate that in the first third of this 12-year period the ratio of therapeutic abortions to live births carried out in that hospital was 1 to 220 and this has come down to a ratio of 1 to 120 in the three-year period from 1962 to 1965.

We would point out that where the law is strictly observed by doctors, women with unwanted pregnancies are driven to seek illegal abortions from unqualified persons, with consequent risk to life and health. If one returns to the figures of the Toronto General Hospital which have a ratio of one abortion per 8.4 admissions for delivery and if one applies this ratio to the whole of Canada, one gets a figure of between 3,000 and 4,000 therapeutic abortions a year. These are the abortions that are sanctioned or permitted under the law as it exists. I should mention that this heading which suggests the law is not being obeyed covers the large number of abortions which are admitted to gynaecological wards—it is 34,930 for Canada in 1964, which excludes Ontario and, I should add, the Northwest Territories. This would suggest a figure of around 50,000 abortions, including spontaneous and criminal, in Canada for a year.

As far as the prevention of conception is concerned, we confined our remarks to the observation that because the law is so openly

disregarded the public has effectively anticipated all but the details of legislation that may be passed.

Under the point that the law is not enforceable, we quoted the figure of 857 convictions for all offences against women in 1963. I apologize for not having a more detailed breakdown of these 857 convictions, which cover all offences against women including rape, indecent assault and others, but at the time of the preparation of this document this was not available. The number of convictions for procured or attempted abortions for all of Canada in 1965 was 24, 9 males and 15 females. We present these figures as evidence that the law is not enforceable.

We say that the law on birth control not only cannot be enforced, but there has been little attempt made at its enforcement since a test case in 1936. I am informed that in 1937 the Ontario Court of Appeal affirmed the lower court's decision in favour of the social worker who was giving out advice on birth control.

Under the third heading—the law restricts medical practice—we suggest that the present law on abortion obliges many medical practitioners, against their conscience and clinical judgment, to withhold a form of treatment, namely termination of pregnancy, in instances where they believe it to be in the best interest of the health of the mother and perhaps of her existing children. As an addendum to this we suggest that the law on contraception has caused medical schools to neglect this important subject in the training of doctors, that is, many of the doctors who are presently in practice. In this regard we give as a reference an authority who has looked into this matter in detail.

The fourth point we would like to make is that our laws on contraception and abortion are out of line with many countries whose social and economic circumstances bear comparison with those of Canada. We understand many of these points have been put forward by other witnesses, but we repeat them in the belief—if new legislation is brought in which does not take into account the situation which exists in Canada at the moment or the experience of other countries—that these very same criticisms will remain to be applied to this new legislation. We believe it is a bad thing for the laws of any country to have these criticisms levelled at it.

I hope members of the Committee have had time to look briefly at Appendix "A", which

refers to the law and practice of abortion and contraception in Europe together with statistics on these countries. We have attempted to give some guidance on the interpretation of these appendices. We apologize that the facts are presented in a very abbreviated form, but we did this in the knowledge that full details of the law are available elsewhere. As far as the statistics we are presenting are concerned we should caution those for illegal abortion tend to be unreliable figures. They were arrived at by very indirect methods, such as the indirect method I mentioned of trying to derive some idea of the number of illegal abortions in Canada. On the other hand, certain figures are of a high order of reliability, notably those on the right-hand side of the table, the analysis of statistics.

The point on which we would like to lay great emphasis is the fact that 15 European countries have liberal or permissive abortion laws. The distinction between liberal or permissive laws and those in which, perhaps, the law allows for a fairly permissive interpretation is not very sharp, but with a critical eye one can identify 15 European countries with permissive abortion laws. In three more countries abortion is tolerated for medical indications and in seven countries there are severe laws. No data was available at this time on two other countries. In the text we quoted certain Western European countries—the Scandinavian countries and Switzerland, to which we now should add the United Kingdom—that have liberal abortion laws. These countries—we do not wish to imply any causal relationship—tend to be wealthy countries with well-developed social security systems and with a smaller proportion of Roman Catholics in the community. Those Western European countries which are predominantly Roman Catholic, whether they are less wealthy countries such as Ireland, Spain and Portugal or more wealthy countries such as France and Belgium, tend to have rigid abortion and contraception laws. Countries with rigid abortion laws tend to report high criminal abortion rates.

The exception to this, in countries with a high proportion of Roman Catholics, tends to be in the East European countries, most of whom have liberal abortion and contraception laws, although many of them have predominantly Roman Catholic populations. The suggestion is advanced that criminal abortions are reported to be considerably reduced in those countries.

In summary, severe abortion laws are, in general, associated with a high rate of illegal abortions—the law is disregarded—whereas liberal abortion laws are associated with a lower rate.

With regard to the association between abortion laws and birth rates, we point out that there are liberal abortion laws to be found in countries with high and low birth rates.

In paragraph 7 we point out that the birth rate gives little or no indication of population growth, and illustrate this with a picture of Portugal and Sweden which have widely different birth rates, but roughly equivalent population increase rates. Population growth here is the result of the difference between birth rate and death rate.

It would be more logical to follow the paragraph at the top of page 5 after this conclusion, which says there is little evidence to suggest that liberal abortion laws influence birth rates or population growth in European countries, but we suggest that these laws represent a rational approach to the control of a major public health problem, that of abortion, which in itself suggests a need for more effective birth control measures.

We point out, in passing, that Canada's birth rate was higher than any European country with the exception only of Albania, and this resulted during the 10 years between 1951 and 1961 in an explosive increase in population, although we do appreciate that immigration has an effect on that.

We also point out that many European countries are concerned about the effect of population increase rates of much smaller proportion than this rate of increase on their ability to provide education, health and welfare, housing and eventually employment for the increasing numbers of children and dependent persons this increase represents.

In the final paragraphs we should follow this remark that in countries where the grounds for abortion have been extended to include social and economic factors, that is, in countries where they have liberalized the abortion laws, the numbers of legal abortions for declared medical reasons have fallen. Appendix B gives an illustration of the small numbers of medical reasons compared with social reasons in two regions where such laws are in effect.

To this I should add the interpretation of Appendix C where, in a Canadian hospital,

the numbers of cases of therapeutic abortion on the whole have risen over the past 12 years, and where the numbers of abortions for psychiatric reasons have almost doubled.

From this one might conclude that legislation which permits only medical or psychiatric grounds for abortion has not fully recognized the extent of the problem of the unwanted pregnancy, and does not adequately protect those women who are determined not to proceed with their pregnancies for a variety of social reasons.

Therefore, we recommend that any future legislation defining the reasons for which an abortion may be carried out should take into account the law and practice in those countries where the existence of liberal laws has enabled a more humanitarian and realistic approach to this problem to evolve. We would comment that liberal abortion laws can only serve to reduce the amount of risk and suffering arising out of the unwanted pregnancy and also resulting from illegal abortions, while at the same time the liberal laws will leave those women and doctors whose views are opposed to such liberalization free to act according to their own consciences.

**The Chairman:** Thank you, Dr. Ball. I now call on the representatives from the Family Service Centre of Ottawa.

**Mrs. J. H. Craven (Vice-President of Board of Family Service Centre):** I am Mrs. Craven, the Vice-President of the board of the Family Service Centre. This is Mrs. Merle Stern, one of our social workers.

We have here a brief statement in support of the liberalization of abortion laws. We speak as a non-sectarian agency fully aware of the different values in society and aware that we should make allowances for individuals and freedom of belief; the law would not make it compulsive for a person to adopt something which was foreign to his philosophy or religion.

We speak from our experience as a family agency deeply concerned with the family as a unit, where families are seen by us under stresses of various kinds of which an unwanted pregnancy, either of the mother of the family already under severe strain, or of a minor who is part of a family, may really be the last straw in disrupting the family.

Therefore, we favour the liberalization of the abortion law as put forward in our state-

ment, and we would like to see these steps taken. With particular regard to the second part on page 2 we state we would like to see in Bill No. C-122 the deletion of the paragraph:

that the continuance of the pregnancy would involve serious risk to the life or grave injury to the health, either physical or mental, of the pregnant woman.

I would draw attention to our replacement, subparagraph (ii)

in determining whether or not there is such risk of injury to health or well-being account may be taken of the patient's total environment actual or reasonably foreseeable.

This arises from our experiences with the family as a unit. It is really not adequate to look at the individual alone. All members of the family and their environment have to be taken into consideration. I think that is all that I need to say at this point.

**The Chairman:** Thank you very much, Mrs. Craven. The meeting is open for questions. Dr. Brand?

**Mr. Brand:** Mr. Chairman, how do you want us to question them? I wonder if perhaps it would not be a good idea if we just put a couple of the groups together in a room and just let them fight it out. The views are so divergent.

I am getting confused here with all the groups. The Institut de la Famille de Montréal, first of all. Could I summarize accurately your position by saying that you are opposed to abortion in any form except when the life of the mother is in danger? Is that correct?

**Mr. Gosselin:** That is correct.

**Mr. Brand:** Then you would not accept the recommendation of the Committee's initial report which suggested that plus inclusion of health?

**Mr. Gosselin:** No.

**Mr. Brand:** Would you go so far as to include life expectancy, and that has been brought up before the Committee several times.

**Mr. Gosselin:** I do not get ...

**Mr. Brand:** The life expectancy of the pregnant woman concerned; serious danger to the life expectancy of the woman. Would you accept this?

**Mr. Gosselin:** Serious danger to life—if life is considered to be very seriously in danger then it is of equal value to the life of the foetus which should be aborted then.

**Mr. Brand:** I was rather interested in your comment on page 9:

Stricter application of the law on abortion; for example, simulation by pregnant women detectives.

I find very intriguing the suggestion of setting up what you might call medically a pseudocytic detective. I am rather curious how you plan to carry that out.

**Mr. Gosselin:** This was done in British Columbia. I do not know how successful they were with this kind of procedure. I do not know whether you know exactly how the illegal abortionists are proceeding.

One girl who found herself pregnant came to me and said: "I want to be aborted". I told her I would help her as much as I could up to the time she asked me to get her an abortionist. Then I said: "Wait a minute, this is not according to my thinking." Finally, in spite of my trying to discourage her, she found one after five contacts, and the only reason the abortionist accepted her was the fact that she had been recommended by a former patient of his. So it is easy to simulate a pregnancy to catch a man in the action of performing an abortion.

**Mr. Brand:** You are suggesting—and I am sure this is outside the terms of the Committee—that entrapment is a good idea?

**Mr. Gosselin:** Yes.

**Mr. Brand:** I throw that in for what it is worth. Dr. Ball, ...

**The Chairman:** The tape will not record a nod.

**Mr. Brand:** Dr. Ball, I note that you are the Chairman of the Medical Committee of the Family Planning Association of Montreal. What do you do otherwise?

**Dr. Ball:** I am an assistant professor in the Faculty of Medicine of McGill University Department of Epidemiology. I was formerly medical statistical adviser to an international survey of maternity care, a study of midwifery training and practice, which was mounted by the National Confederation of Midwives, the International Federation of Obstetricians and Gynaecologists and supported by the World Health Organization.

**Mr. Brand:** On page 4 of your brief, where you refer to subclause 5, you say:

severe abortion laws are in general associated with a high rate of illegal abortions, and liberal laws with a lower rate.

We have had evidence contrary to this before this Committee. For example, Dr. de Veber and Dr. Walters presented the entirely opposite view at our last meeting. What do you have to back up your statement?

**Dr. Ball:** There is a paradox in certain situations. For example, Sweden is considered to have liberal abortion laws, yet I understand there are administrative difficulties in the procedures for qualifying for abortion, and these cause women to go to Poland to find illegal means of obtaining abortions.

**Mr. Brand:** The figures you have presented are very complete, but I must say that at a cursory glance they are very confusing. Would you agree that they are highly speculative in many cases?

**Dr. Ball:** I agree that the figures on illegal abortion are highly speculative. I am referring to the figures on the left hand side of the page. Yes, I would certainly agree to that.

**Mr. Brand:** I am curious why you omitted Japan?

**Dr. Ball:** I consider the social context of European countries to be much more comparable with that in Canada. Japan, an Asian country with intense over-population problems since the post-war period, has undergone a rapid change in its social milieu from the eastern to the western culture. I suggest that it is not a good example from which to judge what happens when certain laws are introduced.

**Mr. Brand:** It certainly gives the wrong impression at the top of page 5, where you say:

However there is little evidence to suggest that liberal abortion laws have much influence on birth rates or population growth in Europe.

Surely in Japan they brought in liberalized abortion laws for the very purpose of controlling the birth rate, and were eminently successful in so doing; so much so that they are looking at it again.

**Dr. Ball:** It is true that Japan did introduce abortion to add to the population-control

measure, but the evidence in European countries does not support the contention, which has been presented in a rather different way, that liberal abortion laws are a hazard to the birth rate of a country.

**Mr. Brand:** I am also curious, doctor, why you left out of your brief any mention of the possible effects, in the event of subsequent pregnancies, upon women who have undergone therapeutic abortions.

**Dr. Ball:** I did not look into the statistics of this.

**Mr. Brand:** Is not this a very important area that should be examined by the Committee?

**Dr. Ball:** It is a very important clinical point which gives that cause for consideration.

**Mr. Brand:** You mention Hungary...

**Dr. Lefebvre:** I do not think it has much important effect on subsequent pregnancies. It may have psychological effects on the woman herself. It does not have any effect on the future pregnancy.

I am an obstetrician and gynaecologist. I have been practising in Canada for quite some time, and for three years I practised in the United States. I also did research work in England.

**Mr. Brand:** Would you deny the possible effect of subsequent repeated abortions?

**Dr. Lefebvre:** It all depends. One can take a special case, but if you consider a number of patients in general it is quite different. If it is done in Japan, or some other place, they will have future pregnancies without any problem.

**Mr. Brand:** Are you familiar with any of the statistics on subsequent effects as presented to the Committee by Hungary? You have mentioned Hungary here. I thought perhaps you might be familiar with those?

The suggestion is that there is a greater increase in premature labour, mental deficiency, and things of this nature, as a result of repeated therapeutic abortions.

**Dr. Lefebvre:** It is very difficult. Perhaps you are not aware of this, but a woman can have an infection of her kidneys and that will cause premature labour.

**Mr. Brand:** That is not what we are talking about. I am talking about therapeutic abortions.

**Dr. Lefebvre:** It is very difficult to relate one to the other.

**Dr. Ball:** May I, in this context, mention that in the British abortion act they do stipulate that the continuance of the pregnancy must involve a greater risk to the life, or injury to the physical and mental health of the pregnant woman than if the pregnancy were terminated. Therefore, it is recognized that a therapeutic procedure is not a minor operation; that it is something that is not taken lightly.

**Mr. Brand:** Doctor, this Committee has had statistics presented to it—I have forgotten the exact source—from the Journal of Obstetrics and Gynaecology.

**The Chairman:** I may say that they are not yet officially before the Committee. They were introduced, but we have not yet cleared them through the publishers. They are not part of our record as yet.

**Mr. Brand:** They were presented to us statistics on therapeutic abortions carried out in a hospital. There was quite a high rate of complications. Is that not correct?

**Dr. Lefebvre:** Yes, that is so, if done for therapeutic purposes. If you consider illegal abortions as a whole, it is quite different.

The abortion itself does not have any influence on the next pregnancy. But a woman who has had a therapeutic abortion done should probably be sterilized before her next pregnancy. If there is sufficient indication for therapeutic abortion, there is sufficient indication for sterilization at that time.

**Mr. Brand:** You would recommend one therapeutic abortion and then sterilization? Is that your view?

**Dr. Lefebvre:** In many cases.

**Mr. Rynard:** Mr. Chairman, may I ask a question on that? Surely we are dealing with a different thing when we have infection. That would have a profound effect on the next pregnancy.

I think that is the point that you were trying to make, Dr. Brand.

**Dr. Ball:** May I suggest that from a study of a series of therapeutic abortions undertaken in a hospital one is not entitled to draw

conclusions about abortions in general, because one is considering cases which, for medical reasons, have been recommended for abortion. To be fair, one should consider a number of cases in which perhaps there is a non-medical condition—something that would affect the future pregnancy. One should also consider a series of abortions in which there have been no medical complications.

**Mr. Brand:** You feel that a permissive abortion, where a woman with an unwanted baby and no medical indication has an abortion, would have absolutely no effect on subsequent pregnancies. I am sure there are many gynaecologists, Dr. Lefebvre, who would not agree with you.

**Dr. Ball:** I do not say that I feel that there would be consequences, but, of course, I do not have the evidence before me. I have not made a study of this aspect.

**Mr. Brand:** I think perhaps you should, though, to help us to make up our minds on what we, as a Committee, are going to do. You follow what I mean? We should have all the facts before us.

That is all, Mr. Chairman.

**Mr. Chatterton:** I would like to put a question to Mrs. Craven. On page 2 of her brief she says:

As a family agency we have encountered situations where the pregnant mother and the total family is subjected to a traumatic experience, often resulting in psychiatric breakdowns

She then gives certain conditions. We have had evidence that the abortion itself does not cure the psychiatric condition of the mother. In the cases that you describe are such patients given treatment by psychiatrists?

**Mrs. Craven:** I am sorry; I did not hear the question. Would you mind repeating it, please?

**Mr. Chatterton:** We have had evidence given to us that abortion itself does not cure the mother's psychiatric condition and, as a matter of fact, it might aggravate it. In the cases to which you have referred, are those patients given psychiatric treatment?

**Mrs. Stern:** These are people who have had psychiatric treatment over a prolonged period of time, having come from very unstable homes and who for one reason or another have been confronted with a pregnancy which

they want to terminate. The pregnancy further aggravates their situations and they are having psychiatric relapses.

**Mr. Chatterton:** But is the psychiatric treatment to which you refer given because of pregnancy?

**Mrs. Stern:** The treatment was started prior to the pregnancy which pregnancy, in turn, makes her problems worse.

**Mr. Chatterton:** Some evidence has been given to us which suggests that an abortion in such a case does not cure the psychiatric condition.

**Mrs. Stern:** I am not disputing the evidence. I am speaking strictly from within the framework of our agency.

**Mr. Chatterton:** In these cases to which you have referred, is psychiatric treatment also given to the family?

**Mrs. Stern:** No, psychiatric treatment has been very limited. It is very difficult in the City of Ottawa to get psychiatric treatment for a whole family.

**Mr. Chatterton:** Thank you.

**Mr. Allmand:** I would like to put a question to the Family Service Centre of Ottawa, which is represented, I believe, by Mrs. Craven. I notice that your centre is an agency of the United Appeal of Ottawa. Was this brief approved by the United Appeal directors. If not, by whom was it approved?

**Mrs. Craven:** It was approved by the board of our agency. It comes directly from our agency as an individual member of the United Appeal. It was mentioned merely to inform the members of the Committee where we stood and what kind of an agency we were.

**Mr. Allmand:** But it was approved by the board?

**Mrs. Craven:** It was approved by the board of our agency.

**Mr. Allmand:** On page 2 of your brief you state:

As a family agency, we advocate greater liberalization of abortion laws and support Bill 122 because it is expeditious.

By this do you mean that we should make changes in the law based on expediency?

**Mrs. Craven:** We used the word "expeditious" in the sense of meaning speedy. If unnecessary delays and red tape could be avoided in carrying out an advisable procedure for the health of a family, this is what we meant by expeditious.

**Mrs. Stern:** May I add something? We had one specific case in mind. This case involved a woman who was two months pregnant, who was involved in an automobile accident and whose family doctor felt there was very little chance of saving either her life or her child's. In such a situation we feel it would be better to perform the abortion at that time with, of course, the approval of two doctors, as Mrs. MacInnis' bill suggests, rather than having to wait for approval by a hospital board.

**Mr. Forrestall:** Where an immediate medical indication is quite apparent, it should be referred to some board for consideration.

**Mrs. Stern:** We used the term "expeditious" because in such a situation we felt two doctors as opposed to a hospital board would be sufficient.

**Mr. Allmand:** Yes. In your brief you set out certain grounds for abortions which you would like to see incorporated in the bill. In view of the arguments you gave, why would you limit abortions to those grounds? Why would you not allow it on request, as some of the witnesses have proposed?

**Mrs. Craven:** I do not think we are prepared to go quite that far as this stage. Our board is not unanimous in the degree of liberalization they wish to see in the law, and this represents a median opinion of our board.

**Mr. Chatterton:** This is the slice before the loaf?

**Mrs. Craven:** It could be.

**Mr. Allmand:** I understand your brief is based on the fact you do not consider that the foetus is a human life. If it is not, why do you put in these restrictions?

**Mrs. Craven:** I do not think we have discussed this question of whether or not the foetus is a human life. We are looking at it from the point of view of the benefit to the family unit—the strengthening of the family. I do not think we are prepared to say at this point that absolutely permissive abortion would necessarily be a wise measure in strengthening our families. There are many other considerations.

**Mr. Allmand:** Dr. Ball, in your brief you seem to recommend changes in our law because other countries have certain laws. Do you think, merely because other countries do certain things, that this is sufficient grounds for our doing the same things here in Canada?

**Dr. Ball:** I hope I did not give the impression that I recommended changes in the law because other countries have different laws. I pointed out that other countries of comparable social and economic development have different laws—they have had them for some time—and this gives us an opportunity that should not be disregarded to observe the effect of such laws, whether these effects are good or bad. This could be a guide to the legislators.

**Mr. Allmand:** You urge that we look closely at these countries? Would you recommend that we withhold making final recommendations until we have made a thorough study of these countries?

**Dr. Ball:** Yes, I would definitely agree with that.

**The Chairman:** Mr. Forrestall, before you proceed with your questions, is it agreed that today's briefs be printed as part of today's *Minutes of Proceedings and Evidence*?

**Some hon. Members:** Agreed.

**Mr. Forrestall:** I want to go a little further, if I might with either or both of the doctors who represent the Family Planning Association of Montreal. First of all, I am curious to know whether or not you consider the statistical evidence you have reviewed—you indicated to us that you have some expertise in this field—and that has been placed before us is sufficiently reliable and adequate for this Committee to make any meaningful decision?

**Dr. Ball:** I would suggest that the information regarding illegal abortions on the left-hand side of the page is highly speculative and great weight should not be attached to it. I would also suggest that the information on the right-hand side of the page—the demography and vital statistics information—is of a high order of reliability and would serve, even if conclusions cannot be drawn regarding the effects of the laws, to indicate that the threats which have been held up as consequences of such laws are not founded in many instances.

**Mr. Forrestall:** Might I ask you in passing if you did the compilation and researchwork?

**Dr. Ball:** I compiled the statistics on the right-hand side of the page. The data concerning the laws was brought up to date from a paper presented by Professor Novak of the Department of Obstetrics in Ljubljana, Yugoslavia, at the International Planned Parenthood Federation Conference at Santiago, Chile.

**Mr. Forrestall:** May I ask you, perhaps from a sense of curiosity, what particular inference would you wish us to draw from the fact you have listed the Roman Catholic population as of 1961 in each of these countries to which you have referred? Was there some specific reason for that?

**Dr. Ball:** Yes, this indicates that in certain countries there appears to be an association between the high proportion of Roman Catholics in the population and severe abortion laws, whereas in east European countries there does not appear to be such a relationship. We also indicate that under these figures Canada has a Roman Catholic population of 46 per cent and we are aware that many presentations from the Roman Catholic viewpoint have been given. However, we would like to reiterate the point that liberal abortion laws, while they might reduce the amount of suffering from unwanted pregnancy and illegal abortion, leave those who have strict views on this point to act according to their conscience.

**Mr. Forrestall:** I must say I reject your reasoning on that entirely. I think it is the wrong approach and it fosters an atmosphere which I tend to resent.

I will ask the Chairman if all of you might comment on my final question. I do not know how to put it briefly, but generally speaking is there any value to be gained if this Committee, in its study of these three private members' bills and the general question, were to seek out—if we have to do it ourselves—an accurate study on some points raised by Dr. Brand. I recall one of those questions as being the effect on women after one or more abortions. Would we gain anything to materially assist us and assist the Canadian people in fully understanding the complications and the complexities of this question of abortion? I ask this question in the sense that although it may resolve an immediate problem in the mind of a woman, it might very well create a more serious problem at a later stage in her

life. In order to realize whether or not this is a factor in our decision, should we go to the trouble of seeking out some very detailed and accurate information even if we have to do it ourselves?

**Dr. Ball:** In answer to this question I would suggest that any medical procedure, whether it be merely to prescribe a birth control pill or to recommend a minor operation, which is what a therapeutic abortion is, should involve taking into account every factor that might influence the woman. This not only involves an entire assessment of the individual woman's case and the possible consequences to that woman, but it also involves looking at it from a greater distance and viewing the statistical implications for all women in this procedure. However, I would also point out that the consequences of allowing a pregnancy to proceed are one of the factors that have to be considered on the other side of the scale to understand the risks of individual termination of pregnancy.

**The Chairman:** Would you like to comment on that, Mr. Gosselin?

**Mr. Gosselin:** I can see that it could be useful, but I do not see that it is really necessary. It could be useful, for example, to clarify figures on the effects after the first abortion, and in this way it could help our position. However, to clarify the question, I think any study would permit a clearer view of the matter.

**Mr. Forrestall:** In essence I am asking whether or not Canadian women fully understand the implications of abortion. It is my strong feeling that they have no concept of what is happening to them physically, as a nondescriptive issue.

**Mr. Gosselin:** I agree with you. This is why I would not leave in the words "just on request" because in order to request you have to know the consequences that will follow. I do not think the population in general is sufficiently educated to answer those complicated questions and is not able to make a judgment whether or not abortion is good.

**The Chairman:** Mrs. Craven, do you have any comments?

**Mrs. Craven:** I think I would just like to say...

**Mr. Forrestall:** Would you mind commenting as an individual. Perhaps that would be best.

**Mrs. Craven:** I think the consequences to a woman have to be taken into consideration, and I can certainly see that understanding as part of family life education is something in which we are vitally interested. As an agency we see liberalization of abortion laws merely as one social measure to reduce stress on families. However, we certainly do not see it as the solution to all ills, and it must be taken in the context of the understanding of the individual and the meaning of that pregnancy in relation to themselves and to their family life. If an abortion seems to be called for, then of course they should understand something of what is involved, as should the doctors who are undertaking it.

**The Chairman:** Before we move on to Dr. Isabelle, I believe Dr. Lefebvre wanted to clarify one statement he made.

**Dr. Lefebvre:** I believe in a statement I made earlier I said "one abortion and one sterilization". I meant one abortion done for medical indications and not for psychiatric or social indications, provided both the husband and wife know the full implication of both sterilization and therapeutic abortion, it should be followed by sterilization. However, this should only take place after full understanding of the problem.

[Translation]

**The Chairman:** You have the floor, Dr. Isabelle.

**Mr. Isabelle:** Mr. Gosselin, if I understood your answer to Dr. Brand just now, you said that your association was against all forms of abortion, even those which can be called "therapeutic" in cases where the mother's life is in serious danger.

**Mr. Gosselin:** No, in fact serious danger to the mother's life is the only reason that the Family Institute will accept. We accept the fact that there are or that there may be abortions. We are not opposed to legislation's considering this factor because, basically, since the value of the child's life is involved, there must be at least an equal value, the life of the mother, to counterbalance this first value. In our opinion, no other reason at all can be accepted for the justification of abortion.

**Mr. Isabelle:** You are well aware that under the present act in the Criminal Code, a doctor today can be prosecuted for having performed an illegal abortion even for the reason which you are putting forward.

**Mr. Gosselin:** There is ambiguity in the act since it was drawn up poorly.

**Mr. Isabelle:** This is Parliament's exact purpose at the moment. They wish to clarify the act. You spoke of the "Trudeau" bill just now; this is only a bill, and it has perhaps been amended or changed. Furthermore, this bill resulted from the argument which I have just mentioned to you. It was drawn up at a meeting of lawyers who were specialists in criminal law. These lawyers met at a congress to study what was wrong in the act concerning abortions. A joint committee which included the Canadian Medical Association was formed and we did not see anything which resembles what the bill contains today. This does not indicate that it is perfect, but in your opinion, is the government justified in clarifying the act as it exists today in the Criminal Code?

**Mr. Gosselin:** Absolutely, but...

**Mr. Isabelle:** Is the government justified in clarifying the act as it exists in the Criminal Code?

**Mr. Gosselin:** I think that the work done has not yet removed all ambiguities. Work was done to clarify the act and another act was presented which created another ambiguity. In fact, in section 209 of the "Trudeau Bill", danger to the life of the mother is mentioned. In section 237, the life and the health of the mother are mentioned. No relation is made between sections 237 and 209. Just as at the present time doctors can be sued because according to section 209, the health factor is not included in the act...

**Mr. Isabelle:** I understand.

**Mr. Gosselin:** ...because in section 209 and section 237, there is no indication that a doctor could perform an abortion to save the life of the mother.

**Mr. Isabelle:** You are the one who is saying it at present since it is simply a question of a draft bill. That is why we are considering briefs in order to fashion in an intelligent way a new bill which will be acceptable and will clarify what existed before.

Tell me, is the association which you represent centred on any religious movement, Catholic, Protestant, Lutheran, etc?

**Mr. Gosselin:** The Family Institute of Montreal is non-denominational in law. In fact, it is composed only of Catholic organizations

although we would be happy to include non-denominational associations. We do not have any Jewish associations or protestant associations or associations which call themselves "neutral". However, we would be happy to include a "Family planning" association of Montreal for the very reason that our association as a group as a federation, is working towards improved conditions for families. If religious groups can work towards improved conditions for families, we will be happy to accept them in our organization.

**Mr. Isabelle:** Non-denominational?

**Mr. Gosselin:** That is right.

**Mr. Isabelle:** You are in no way a religious organization. You have no chaplain, etc?

**Mr. Gosselin:** No.

**Mr. Isabelle:** I have a question for Dr. Carreau. You spoke of life. I am sure you know that it is difficult to determine when life begins. It is somewhat indefinite, and we Catholics have never been able to agree on the moment the foetus becomes alive.

**Dr. Carreau:** Are you asking when life begins or when human life begins? Could you tell me exactly what you mean?

If you really want to know when life begins I think there can be no doubt that we know when life begins. Life begins as soon as there is a biological possession of life. This can be verified in the case of a plant, an animal or a human being as soon as there are in an individual one or more cells or a principle in progress which allows growth or multiplication of cells or when there is something which progresses towards the future.

The difference between life and non-life can be demonstrated by the fact that my glass will always be a glass. I can break it, but it cannot turn itself into something else without outside intervention. For that reason, there is no doubt in my mind that the foetus has life.

The question was asked, however, if it has a human life and in my brief I asked if we should consider that humanity exists before complete maturity. If one is a human being only when one has all the characteristics of a human being: a developed mind, good judgment, sense of responsibility. If this is the definition of life, then there are only a few adults who reach this stage.

If we consider that there can be human life as soon as there is the possibility of producing human life, how far back can we go to

find the moment when individual has the characteristics which would enable it to become this future human. There is usually a difference between medical opinion and the general consensus of opinion.

A doctor considers birth in relation to the overall aspects of life. Unlike the majority of people, doctors usually consider it much less important. Most people consider birth as a very important event. For doctors, especially today, when the preventative aspects of medicine continue to develop, it is now known that intra-uterine life has an enormous influence on life outside the uterus; these are only two different forms of life, one of which enjoys an additional degree of autonomy and realization.

However, this independent form of life has been preceded by many other stages during intra-uterine life which make it possible for the being to acquire a progressively increasing degree of autonomy.

If we go back to see at what moment there was something which already chemically represented the future individual, we must go back to conception, where for the first time we see in the cell nucleus the potential chromosomes and genes, the chromosomes which are unique to this individual. It does not yet have all its characteristics, the sexual characteristics for example, but the nucleus of its cells already carries an indication and it is enough to encourage its development and nourish it for it to produce the future individual.

For example, if we make a general study of the foetus at the moment of nidation or at three months or at six months of pregnancy, we will always find the same pattern of chromosomes. This pattern will end only at the death of the individual. Even if he has descendants they will not have the same pattern; only a part will be the same. The chromosome pattern is unique to this individual.

**Mr. Isabelle:** Therefore, you do not agree with Saint Alphonso de Liguori, Saint Albert the Great and Saint Thomas Aquinas?

**Dr. Carreau:** No.

**Mr. Isabelle:** Thank you.

[English]

**Mrs. MacInnis (Vancouver-Kingsway):** I would like to ask each of the groups that has come before us this morning, when the question of an abortion comes up and whether or

not it shall take place, which interest do you think should take priority: the interest of the foetus; the interest of the pregnant woman; the interest of the entire family, or the interest of the state?

Please do no mind my including the matter of the state, because I was told that the other evening a medical man stated at a panel discussion here in Ottawa that so far as he was concerned his reproductive organs belonged to the state, so I think the matter probably is worth while including in my question. We have been told that a woman's body does not belong to her. Well, that is in line, of course, with the fact that we now live in a communist state, according to the Ontario Medical Association.

To my mind there is a question of sorting out interests here because there are conflicting interests, that of the foetus, the woman concerned, the whole family group and the state, if you like. You cannot go ahead with an abortion without somebody getting hurt in the process or somebody's interest taking a lower place. Now, how do you sort those interests out in thinking what we should do in connection with the whole matter of abortion legislation? I do not care who speaks first but I would like to hear from each group.

**The Chairman:** I have just a point for clarification. Was the doctor who made the statement a medical doctor?

**Mrs. MacInnis (Vancouver-Kingsway):** I was told so.

**Mrs. Stern:** May I speak about this? I would imagine, with Mrs. Craven's endorsement, we would support the view that the total family ought to be considered. One of the reasons, I feel, is that it varies throughout Canada. In most provinces a child born within a marriage cannot be placed for adoption. This is particularly enforced in the Province of Quebec from a provincial point of view. Within the Province of Ontario, while it is not as strict, there are no facilities available to place a child born within a marriage and where the family is disintegrating. Therefore, I feel the total family ought to be considered.

**The Chairman:** Would you repeat what you said about Ontario?

**Mrs. Stern:** A child born within a marriage in Ontario can be placed for adoption, but there are no resources; the Children's Aid will not take on and place the child.

**Mrs. MacInnis (Vancouver-Kingsway):** You have had experience on individual cases, I believe.

**The Chairman:** As a medical practitioner, so have I.

**Mrs. Stern:** I would imagine there is a community...

**The Chairman:** It may vary from office to office but it can and has been done.

**Mrs. Stern:** Yes. Within the Province of Quebec, if both parents can be classified mentally ill and unable to look after the child, this is the only circumstance under which a child born within a marriage can be placed for adoption.

**Mrs. MacInnis (Vancouver-Kingsway):** So you would give the whole family situation a very high priority in your consideration in a situation of that kind?

**Mrs. Stern:** We have the unmarried youth too; not only the mother, but situations of an unmarried youth. Therefore, the total family ought to be considered.

**The Chairman:** Dr. Ball?

**Dr. Ball:** The physician's primary responsibility is toward his patient, in this case the woman, and her interests should be taken into account, but the physician would be failing in his duty if he did not take into account all the other aspects, shall we say, in diminishing order of importance; first of all, the family and the other children and second, I think, the community at large.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, I really mean "community" when I say "state". The word "state" really does not mean so much with us as the word "community" does.

**Dr. Ball:** Well, let us say the woman first, but one has to think of her family almost as an extension of her, and similarly the other parts further removed such as the community as a further extension of that family.

**Mrs. MacInnis (Vancouver-Kingsway):** What would you do with the foetus?

**Dr. Ball:** Well, rather than enter into questions of when life begins or when the foetus has...

**Mrs. MacInnis (Vancouver-Kingsway):** No, I do not want you to do that.

**Dr. Ball:** I would put the foetus last.

**Dr. Lefebvre:** I would appear to be against the family this time even though I represent the Family Association. But in a conflict of interest, I think we have to seek, and question ourselves about, values. Which has the higher value, which is more transcendent, in an abortion? Is it the life of a person; is it the facilities of life in which that person is going to live; is it the well-being of the family? Which has the highest value?

For me, there are two transcendental principles of life which are to keep life going, and then to generate, for the physicists to keep the life going. I think this is a primary and base value which everyone has in common with every other being.

I place the interest of the foetus first because it is not just a piece of meat, it is an individual.

I am not sure that abortion facilitates the family value, or would make it easier for the family to live; but I think it is the responsibility of society to make the circumstances such that the pregnancy is acceptable.

For instance, for a pregnant girl I think it is very important that the legislation carry out some understanding about the acceptance of that girl as a mother.

"La mère célibataire" is not accepted in our society, and one of the first things that she will think about is how to get rid of what is in her even if it is a person.

If a woman of three or five children has another one it is the responsibility of society to permit her to have another one. Even if the pregnancy is not accepted, the child of the pregnancy makes itself accepted because it is a lost life.

I think those are values that we have to consider. It is the same thing for the state; I do not think the community would rather lose a member than enlarge the community, because as a manpower councillor I consider a foetus a potential working being and a good thing for society.

**Mrs. MacInnis (Vancouver-Kingsway):** Do you think it is necessary to increase the population in this age of automation, where there is a great deal of unemployment?

**Dr. Lefebvre:** It is only one more living in a society of leisure.

[Translation]

**Dr. Carreau:** May I add something? You asked us to place the importance of the interests of these four persons in order. I think that in a given judgment, the decision would vary according to these interests.

For example, I would place the mother first and the foetus second if it were a question of two lives. However, I would place the foetus first if it was a question of its life, and the mother second if it were a question of her well-being, because in such a case I consider that life has prime importance. I feel that other methods could be attempted to obtain the well-being of the mother, even if it appeared that her well-being might be reached through abortion.

It is possible that the situation might not be satisfactory in a given case. There is a possibility of terrible situations because an abortion cannot be performed. However, if the law on abortions were made very liberal, I feel it would be just as terrible to suppress many lives to improve the mother's condition when this could be achieved in some other way.

Thus I feel that a theoretical classification of the interests of each individual must take into consideration the importance of the interests involved.

**Mrs. MacInnis (Vancouver-Kingsway):** Thank you.

[English]

**Dr. Lefebvre:** We should take into account the foetal outcome. For example, if you have a foetus that you know perfectly well will not survive after 24 weeks intra uterine gestation, then if the life of the mother also is in danger I think her life should have priority at that time because the foetal outcome is very poor and we know it is in some cases.

**Mrs. MacInnis (Vancouver-Kingsway):** May I ask one question? I am going to ask this of Dr. Ball, and if anyone else would like to comment he may do so.

You have made a study of abortion in other countries. On the basis of what you have studied and what you think, what do you think would be the effect in Canada of leaving the law the way it is, just cleaning up the Code so as to make it clear that it is legal to save the life of a mother. Let us suppose we just leave it that way and not add "health" or anything else and just make it clear that

henceforth it will be legal to save the life of the mother and nothing else. What would be the effect of that in Canada?

**Dr. Ball:** By restricting it to a question of saving the life of the mother, you disregard all questions regarding the potential child, whether it is going to be born deaf or deformed through some other condition; you disregard the situation into which that child might be coming; you disregard the effect of an additional child in a family that cannot make ends meet; you also disregard even the isolated cases of, say, a healthy and mentally fit single woman or girl who is pregnant; you disregard the absence of services and society's acceptance of a mother with a child. So, I feel this would not be going far enough.

In fact, what one would do by taking legislation only so far would be to institute the situation that existed in the United Kingdom prior to the introduction of this revision in the British law. In fact, in England they have a law that was made about 100 years ago which case law has modified over the years. But I feel that a fresh look at the way advanced countries have been able to apply very liberal laws is necessary before arbitrarily making any decisions on what would be suitable for Canada.

**Dr. Lefebvre:** I think it would be in contradiction to the present atmosphere of legislation where we are thinking specifically of accepting the charter of the rights of men. I think one of the first rights of man is to live and abortion is taking the life of an individual which is strictly against present legislation. I am not so sure that the legislation passed in England in July would go through if it were presented now.

It seems to me that the people opposed to it were not sufficiently organized, and it was passed rather quickly. But now that it is passed there is very strong reaction. That is why I say that I am not sure liberalization would have taken place if it were presented now.

**Mrs. Craven:** This is just a personal statement about life; we are so anxious that the one criterion should be the life that the foetus is permitted to have, but I just want to ask, what is life and what are we living for? We do have to consider whether the life is to be fulfilling, or stunted and twisted. Is this the end of man? I think that is all I want to say; the right to learn is not, perhaps, enough.

**Mr. Stanbury:** Mr. Chairman, I would like to know from Mr. Gosselin whether he attaches any different degree of importance to human life from the time he believes it starts until the time he believes it ends. In your estimation is there any difference in quality or any sort of gradation at all in the value of human life from the moment of conception to the moment of death?

**Mr. Gosselin:** From the beginning I think the value of life itself has to be considered and there is another reason. The decision to live really belongs to the individual living. A man of 40 years of age who has a career, is working and has responsibilities, has a life more valuable than a foetus.

**Mr. Stanbury:** Do you commit yourself to the preservation of the life and health of your patient? Doctors do commit themselves to the preservation of the life and health of their patients, as I understand it. Is there no serious risk to the life of a doctor's patient that you see as justifying the ending of the life of the foetus to which you have said you attach an increasing importance as it develops?

In other words, at some point in the development of that foetus, is there not the possibility that the increasing danger to the health of the mother meets the increasing importance of the life that is incipient. The commitment of the doctor is to preserve the health of his patient.

**Mr. Gosselin:** You are making a parallel between the health of the mother and the life of the foetus.

**Mr. Stanbury:** Is there no danger, no matter how grave, to the health of the mother that you see as justifying the doctor's intervention to interrupt the life of the foetus?

**Mr. Gosselin:** I think the question is very theoretical in the medical state of knowledge that we are in now. I do not think it can happen even for the life of the mother. I do not know the statistics, but I imagine that since the last ten years, there has not been an abortion specifically against. You speak of health, but health is the quality of life, it is not life.

**Mr. Stanbury:** Neither you nor I are doctors so I think your presentation is based more on a moral concept than a medical one. I am just trying to find out whether you feel, from your philosophical standpoint, there is any point at which a doctor would be jus-

tified in preventing grave risk to his patient's health by interrupting an incipient life which I think you have admitted is of graded importance as it progresses.

**Mr. Gosselin:** When you are talking of health, this is a very extended concept which goes from minus infinite to plus infinite.

**Mr. Stanbury:** Let us take the strictest concept, then.

**Mr. Gosselin:** What is the strictest concept?

**Mr. Stanbury:** Dr. Isabelle or Dr. Brand has suggested that one might talk in terms of serious shortening of a person's life expectancy as being a grave danger to their health. You would not accept that?

**Mr. Gosselin:** No, because I think it is the responsibility of society and science to take care of that life.

**Mr. Stanbury:** You have said one page 6 of your brief.

We have here two identical values, the life of the mother and the life of the unborn child.

So you believe that at every stage of development from the moment of conception that potential child's life has identical value to the value of a living person.

**Mr. Gosselin:** Not identical value, but the value of life is equal for both. I do not know whether it is clear. The life of a 40 year-old-man is not identical to the life of a 40-day foetus but the value of life to both is identical.

**Mr. Stanbury:** In no case would you give preference to one over the other. But then in the next sentence you say:

We feel that the life of the mother must be preserved at the expense of that of the unborn child.

So in saying that, you do give preference to one over the other.

**Mr. Gosselin:** There are two equal values in conflict.

**Mr. Stanbury:** How do you revolve that if they are equal?

**Mr. Gosselin:** In value applied but not as value of being.

**Mr. Stanbury:** Then there is an inequality in your mind that permits you to choose in

favour of the living, the born, over the unborn?

**Mr. Gosselin:** The mother is a complete, mature, living being. Her life is more valuable than the life of the foetus.

**Mr. Stanbury:** Then they are not of identical value.

**Mr. Gosselin:** The values are equal, the values of life; not the validity of life, not the weight. You do not put value in the balance; you put life in balance.

**Mr. Stanbury:** I think you have explained yourself sufficiently for my purposes. I would like to ask Dr. Ball and Dr. Lefebvre whether either of them agrees with the statement, quoting from the previous brief:

We have here two identical values, the life of the mother and the life of the unborn child.

**Dr. Lefebvre:** If the presence of a child endangers the life of the mother you have to take into consideration whether it endangers only her mental health or physical health, then if it is only physical health or mental health I feel that the life of the foetus probably has more value. If it is the life of the mother against the life of the foetus, then I think the life of the mother has more value than the life of the foetus.

**Mr. Stanbury:** In other words, you do not agree that they are two identical values at all points?

**Dr. Lefebvre:** Not until the foetus has reached the viability stage.

**Mr. Stanbury:** You seem to suggest that medical judgment should apply throughout this period of pregnancy about what weight should be given to the importance of the incipient life in relation to the existing or fully-formed life.

**Dr. Ball:** Rather than attach values to life, I would prefer to agree with Dr. Lefebvre and merely say that at the point of viability, which the World Health Organization committee recommends as 28 weeks of gestation, then one can consider the foetus theoretically capable of independent existence.

**Mr. Stanbury:** Would you attach the identical value to a foetus which is viable and to a person who has been born?

**Dr. Ball:** Yes.

**Mr. Stanbury:** You would not attach that identical value to a foetus before it is viable?

**Dr. Ball:** No, I would not. Medically I believe that after this period of three months, which many medical people put as a conservative end point after which they do not like to perform an abortion, that the procedure changes from a minor to a major operation with greater hazards.

**Mr. Stanbury:** After viability you would still give preference to the life of the mother over the life of the unborn child?

**An hon. Member:** He said preference.

**Dr. Ball:** After the point of viability the operation would be a Caesarean section, which is merely a method of delivery of a baby, and it would not be an abortion.

**An hon. Member:** It all depends what time you are thinking of.

**Mr. Stanbury:** Mrs. Craven, perhaps you could comment on whether or not you agree with the statement that here we have two identical values, the life of the mother and the life of the unborn child. Do you agree with that statement?

**Mrs. Craven:** I am afraid that I do not agree. By the way, are we talking about a viable child or a foetus.

**Mr. Stanbury:** I am quoting from a brief that seems to give identical value to human life from the moment of conception, and I am trying to find out whether you agree with the concept that is expressed in this brief?

**Mrs. Craven:** I do not think that I can agree with this in the sense that I see the quality of life as being vital. I think the unborn foetus is an unknown quantity. We do not know its potential, we do not know if it will ever become a rational human being and we do not know whether the life of an unknown foetus can be regarded in the same light as the life of an existing rational human being.

**Mr. Stanbury:** Thank you, Mr. Gosselin, you have suggested at the top of page 9: "Stricter application of the law" in this field. Are you familiar with the evidence that was given by the representatives of the Canadian Medical Association and others, I think, to the effect that respectable doctors in respectable hospitals are performing abortions which they admit could not possibly be interpreted

as being legal under the present law? Are you suggesting those doctors should be prosecuted?

**Mr. Gosselin:** No, I am just suggesting, considering the fact that it is possible to have a good legislation and a good law that could be followed, that this law should be executed.

**Mr. Stanbury:** Do you believe if we passed a law such as you have recommended, which says that a therapeutic abortion could only be performed when the life of the mother was in danger, that these other operations would cease? Do you believe that doctors would find that their conscience would not permit them to perform the abortions which up until now their conscience has dictated they perform?

**Mr. Gosselin:** I think there is a certain limit to what the law can do. There are possibilities of education among people.

**Mr. Stanbury:** But in suggesting stricter application of the law you did not propose the prosecution of doctors for breaking the law?

**Mr. Gosselin:** Yes, if they are breaking the law; I mean as individuals.

**Mr. Stanbury:** Do you recommend that these doctors be searched out and prosecuted?

**Mr. Gosselin:** I think the responsibility of the legislation should follow through, otherwise it is useless to pass laws.

**Mr. Stanbury:** Yes, I quite agree. Of course, prosecution comes under the provincial governments. We make the criminal law but by and large the provincial governments are responsible for enforcing it. Are you recommending that provincial authorities prosecute as many doctors as they can find who have broken this law?

**Mr. Gosselin:** Not under the present law, but under a rational law.

**Mr. Stanbury:** Not under the present law?

**Mr. Gosselin:** No, because it is ambiguous.

**Mr. Stanbury:** I see. Do you feel there is any way which the present law, ambiguous as it is, could be interpreted to permit abortion on the basis of risk to the mother's health?

**Mr. Gosselin:** Not unless it would result in the mother's death.

**Mr. Stanbury:** There is nothing ambiguous about the present law in that sense, and if

there are clear cases of doctors breaking the law why would you not suggest that they be prosecuted?

**Mr. Gosselin:** Because the law is ambiguous.

**Mr. Stanbury:** You said that it is not ambiguous on that point at all.

**Mr. Gosselin:** It is ambiguous on that point of life. Clause 209 specifies life; clause 237 does not specify life.

**Mr. Stanbury:** Perhaps I did not make myself clear. I was saying that the evidence before us is that many doctors today are performing abortion with the approval of therapeutic abortion committees in hospitals for purposes of preserving the mother's health and not her life. This seems to me to be clearly a breach of the present law. Would you not agree?

**Mr. Gosselin:** I agree.

**Mr. Stanbury:** And you would suggest that those doctors be sought out by provincial authorities and prosecuted to the full limit of the law?

**Mr. Gosselin:** I agree.

**Mr. Stanbury:** In your conclusion you say that you want to do everything in your power "to prevent the proposed legislation from becoming law". When you mention "proposed legislation" are you speaking of the bills that have been proposed in this Committee, or are you speaking of the bill that has been proposed by the Minister of Justice?

**Mr. Gosselin:** When our memoire was made it was strictly for the bills before this Committee, but I would agree on the same for Bill C-195.

**Mr. Stanbury:** The amendment proposed by this Committee in its interim report and included in the omnibus Criminal Code bill?

**Mr. Gosselin:** It is not included.

**Mr. Stanbury:** I will not argue with you about that. In any event, the proposed amendment to the Criminal Code, which appears in the government's omnibus bill, is as offensive to you as any of these bills which would go further.

**Mr. Gosselin:** Not as much, because it takes into account the health of the mother.

**Mr. Stanbury:** So you would go on a hunger strike to try to avoid implementation of the Minister of Justice's recommendation?

**Mr. Gosselin:** It is one way of protesting against any law or any situation you do not agree with; you can start a parade; you can participate in other things.

**Mr. Stanbury:** When do you plan to start?

**Mr. Gosselin:** When is it planned that the law is going to pass?

**Mr. Stanbury:** The law has been proposed in Parliament and it has received first reading. When are you going to start your hunger strike?

**Mr. Gosselin:** It has to be close enough. From the speed the legislation is going now I believe it is going to take a year, a year and a half or two years to put it through.

**Mr. Stanbury:** Dr. Ball and Dr. Lefebvre, have you any plans for a hunger strike if we do not amend the law as you recommend?

**Dr. Ball:** I think there is ample evidence that even if the law is amended by Mr. Trudeau's proposed amendments probably this will go no further than condoning the legal abortions that are already being done. It will not do anything to improve the hazardous situation concerning illegal abortion that is now practised.

**Mr. Stanbury:** Are you concerned enough about the law going further than Mr. Trudeau's bill to go on a hunger strike?

**Dr. Ball:** I think there are better means of encouraging amendments to the legislation.

**Mr. Stanbury:** How about you Mrs. Craven; will you and your organization go on a hunger strike if we disagree with you?

**Mrs. Craven:** I think we would agree with Dr. Ball that there are better ways. I am quite sure we would continue to take action but not necessarily go on a hunger strike.

**Mr. Stanbury:** I am glad; there will not be too many hungry people in the country over the next few months. Thank you.

**The Chairman:** Mr. Matte?

[Translation]

**Mr. Matte:** Perhaps the answer was not given accurately. I believe that the committee, in order to help or enlighten doctors,

recommended that abortion be allowed when the health and life of the mother are in danger. What would you think if the Omnibus Bill said: "if the life and health of the mother are in serious danger?" Would you consider this acceptable or is the word "health" too broad? How could this be stated more explicitly or changed to help the doctor reach a decision?

**Mr. Gosselin:** I would simply remove it. I feel that the word is too broad and does not correspond to the value of the mother's life. That is the very basis of our argument and it is in no way acceptable to us.

**Mr. Matte:** Yes, but in the present bill, abortion is permitted to save the life of the mother.

**Mr. Gosselin:** Not her health?

**Mr. Matte:** No, but in the bill which is now being considered, the omnibus bill, yes. It is at present in the Criminal Code.

**Mr. Gosselin:** Not the word "health".

**Mr. Matte:** Not "health" I understand. At the present time, the doctor is confused, even with the Code. He wants to have the situation clarified. But how can we define the situation so that he may at a given moment take the responsibility of performing an abortion when the life of the mother is in danger and of determining the moment when the mother's life is actually in danger.

**Mr. Gosselin:** I do not think the law can clarify this. It is up to the doctor with his knowledge and his professional ethics to determine when the life of the mother is in

danger. On Tuesday, I think, certain criteria for determining life and death were discussed. I feel that it must be decided at that moment. It is not a question for the legislators to decide.

**Mr. Matte:** Dr. Isabelle might be able to give us an answer on this. Are you...

**Mr. Isabelle:** I am not a witness!

**Mr. Matte:** You can never define the moment when the life is seriously endangered.

**Mr. Isabelle:** Many factors are involved, which I will explain later.

**Dr. Carreau:** Do you know the definition of health given by the World Health Association? It is the physical and mental welfare of a person, it is his total welfare. Any illness or any threat to the physical and mental welfare is a threat to the health. This can include many things. This is the problem.

**Mr. Matte:** The problem...

**Dr. Carreau:** When health is involved, decisions are arbitrary with regard to what is implied. In the scales, a threat to health can be equal to the life of the existing foetus.

[English]

**The Chairman:** Are there any other questions? If not I would like to thank the three different groups of witnesses for coming here today. It has been a most interesting morning and I thank them for making their appearance and testifying before us. The meeting is adjourned until Tuesday when we will have representatives of the United Church; place unknown at the moment.

## APPENDIX "II"

## [Translation]

Presentation of the Position of the *Institut de la Famille de Montréal* (Family Institute of Montreal) to the Standing Committee on Health and Welfare, respecting the Subject Matter of Abortion

Date: February 1, 1968.

## PRELIMINARY

The *Institut de la Famille de Montréal* (Family Institute of Montreal), combining family organizations within Metropolitan Montreal, comprises 12 groups extending service to some 10,000 families.

*Roland Gosselin, President*

Canadian citizen, resident of Douville, St-Hyacinthe County, Quebec, 37 years of age, married, father of two children.

Education: Bachelor of Arts, Bachelor of Philosophy, completed course work for license of Philosophy.

Experience: Executive Secretary, French Canadian Association for the Advancement of the Sciences (1961-1963); Marriage Preparation Service (1963-1966); Manpower Advisor (1966-1967; Manager of a Canada Manpower Centre (1968).

## COMMITTEE'S TERMS OF REFERENCE

The terms of reference of this standing committee are to consider Bills C-122, C-123 and C-136 which concern respectively abortion, birth control and termination of pregnancy by registered medical practitioners. The purpose of the committee appears to be to study these texts and the matters which they concern.

As a witness, therefore, I shall take the liberty of commenting on these texts, on the reasons behind their preparation and on the various debates which have ensued since the committee has been in session. The presentation does not presume to be either scientific, sociological, or legal. It is simply a serious and humanistic reflection by persons concerned above all with family education.

The position of the witness is not the most comfortable one, as he must be, at the same

time, witness, judge and lawyer: a witness in that he presents the position which he will defend; a judge in that he opposes the bills presented by some members of your committee; a lawyer in that he defends the position of others.

## INTRODUCTION

On behalf of the Family Institutes of Montreal and on my own personal account, I wish to take the part of the some 500,000 children, presently in the pre-natal stage, in Canada. These children have no voice save through persons willing to undertake their defence, and the Family Institute is of this group.

In the first place, we feel it of extreme importance to distinguish between abortion and methods of birth control. It is obvious that the above-mentioned bills are being considered in relation to birth control as attested by the title of Bill C-123 and the notes to Bills C-122, C-123 and C-136. The major reason which causes us to draw a distinction between abortion and birth control methods is that abortion affects a third person whereas birth control methods merely control the effects of sexual intercourse between man and woman. Abortion has a direct effect on life, whereas birth control governs only one faculty of a couple, their fertility.

A pregnancy may, for various reasons, give rise to numerous family, social and economic problems. We recognize the seriousness of these problems but we do not agree that the solution lies in abortion for the very reason that we cannot place the burden of responsibility on the unborn child, which has an inalienable right to life. Society is responsible for the difficulties of life today and in the future, but it is also responsible for the very life of the generation to come. Social solutions may be varied: more effective methods of family planning and motivation for use of these methods; legal status of the unwed mother; family courts; legal recognition of every child; system of family allowances in proportion to dependents.

## POSITION OF THE INSTITUTE ON ABORTION

As set forth in our brief, published November 9, 1967, the Institute is categorically

opposed to any legislation which would permit or render possible at will the abortion of a foetus. The fundamental reason for our position is that abortion interrupts the development of a human life. When the ovum has been fertilized by the spermatozoid, the process of human life is immediately set in motion, a life which will emerge 9 months later.

We base our position here on the biological concept of life. The ovum is a living cell, the spermatozoid another living cell.

Each of these cells contains elements (chromosomes) characteristic of the parent, although only half as many as exist in any other body cell. They are adult cells and fulfill their role, since, if they are not fertilized, they die without being able to reproduce themselves.

However, if the ovum is fertilized by a spermatozoid, the two nuclei fuse, the chromosomes come together and combine in such a way that, according to the laws of genetics, the life resulting from their fusion is entirely new, different from any cell originating from the father or mother. At this moment sex is determined as well as hereditary characteristics. The new life is capable of growth (by cellular multiplication) and has only to be nourished to develop later into an adult individual. The initial cell soon begins to multiply by 2, 4, 8, etc. and the nuclei of all these cells continue to bear the new chromosomal arrangement, which is unique to the new individual, and which will continue throughout its life, intra-uterine and extra-uterine.

In the Middle Ages, there could have been debate as to when a foetus became human: as scientific knowledge was very restricted, appearance was the determining factor and it was believed that a foetus passed successively through all the stages of vegetable, animal and human life. But modern genetics and embryology supply data convincing us that the life in progress is human from the moment of fertilization. It is at this moment that the biological history of the adult individual is determined, and all other transformations which the individual will undergo between conception and adulthood are but successive stages of development, each of which presents only minimal differences from the preceding and following stages.

How knowledgeable is the man who can pinpoint the exact moment, other than fertilization, when life suddenly becomes human. Would it be the moment of birth? The newborn child is incapable of several functions common to adult persons; he can neither chew his food, see, grasp objects, speak, run, nor reason. Few doubt that he is human as they realize he has all the potential for becoming a human adult if he is placed in conditions reasonably favourable to his development. Is there an essential or accidental difference between the foetus and the newborn child 8½ months after conception? Circumstances have forced the second to take one step further towards autonomy but would the other not be able to do the same if the circumstances were similar?

Would we pinpoint the age when the foetus becomes viable? This could be taken as a sign of obvious autonomy. This age is so variable, depending on the progress of science and on circumstance, that we feel it absurd to say it involves a change in nature. Moreover, all foetuses of the same age are not equally viable.

Should we say it is the moment when the mother feels the first stirrings of the foetus? Such movements are certainly a sign of a degree of autonomy, but is this not simply a difference of intensity between the day when they are felt for the first time and the evening before?

When human life does begin is a primordial question and must be considered seriously. We wholeheartedly support Mr. Dehler, the Ottawa lawyer who has already emphasized before you the importance of this problem.

Human life does not pass through the various stages of vegetable, animal and human life, but is human from the beginning: this is the opinion of the Institute. The foetus has within itself all the potential for development, for maturation of the cells which will enable to attain its full growth at the proper time. The evolution of a foetus does not allow us to assume that it is first of all a vegetable, then an animal, then a man. From the beginning it is a potential human being with everything it requires within its organism, even though this organism is intimately linked with that of the mother.

A direct attempt to halt the evolution of such life is akin to murder and by this very fact cannot be condoned. Such a solution we feel, can in no case be contemplated, except when the life of the mother is in danger, to

resolve the difficulties of an inopportune pregnancy.

Should there be any doubt that human life begins with fertilization, let the evidence of non-human life be clearly established by those seeking a liberalization of the legislation on abortion.

### OTHER SOLUTIONS

Before considering abortion as a means of limiting births, it would be much more profitable to examine the experience of other countries, such as Japan, Czechoslovakia and the Soviet Union, which have legalized abortion for the purpose of birth control, but have gone back for various reasons to methods of preventing conception rather than working on persons who have already conceived.

### REASONS FOR ABORTION

Several reasons have been put forward up to now for justifying a liberalization of legislation on abortion: serious risks to the life of the pregnant woman; physical or mental health of the pregnant woman; possibility of an abnormal child or pregnancy resulting from rape or incest. Of these reasons we accept liberalization of the law only when abortion proves absolutely necessary because of grave danger to the life of the pregnant woman. This, we feel, necessitates the elimination of one life over another. We have here two identical values, the life of the mother and the life of the unborn child. We feel that the life of the mother must be preserved at the expense of that of the unborn child.

We refuse to accept the reason of the physical and mental health of the woman, as this is a quality of life and not a value of life which is at stake. On the other hand, on the practical scale, it is difficult for doctors to make any definite statements of the consequences of an abortion in relation to those of a full-term pregnancy. Likewise, it is difficult to determine the psychic, traumatic consequences over a short or long period of time for the person undergoing the abortion. According to Dr. Myre Sim in a study published in the British Medical Journal, July 20, 1963, on ABORTION AND THE PSYCHIATRIST: "It (abortion) cannot be to prevent mental illness, for abortion is not a prophylactic against psychosis but rather a precipitant". In conclusion, the psychiatrist adds: "Abortion even if therapeutic may in itself produce a psychosis." According to the doctor, it is

obvious that the mental health of a woman may be affected as much by abortion as by pregnancy.

We reject the reason of the possible birth of an abnormal child because, even if the child is abnormal, it has a fundamental right to life, even if it has not full enjoyment of the faculties which others possess. Thelluson's law, many times referred to in the present debates, which gives an unborn child the right to inheritance, appears to us to be a legal reason for granting this same child the right to live. When the abnormal child becomes part of society, it will be the duty of this society to take care of him and permit him to live according to his abilities. This legal argument is valid for every unborn child, whatever the difficulties which he may cause.

On the other hand, a sure diagnosis of congenital abnormality cannot be made right at the beginning of pregnancy; if there are statistically ten chances out of one hundred that the child will be abnormal, must we kill the 90 normal children who could result from such pregnancies?

The reasons of rape and incest do not seem to us to provide justification for taking the life of a child who is not responsible for the actions of those who have created him. It is a painful situation for the persons involved, but the worst part and the most disastrous consequences have already occurred for these people. Abortion will not solve their difficulties.

### REASONS OF EUGENICS

Eugenics, that is, the process of improving the hereditary qualities of a race by eliminating the possibility of the birth of abnormal or deformed children, mentioned in Bill C-122 and in the report of the previous debates where particular discussion was held on improving the qualities of a race, is completely contrary to human ethics. Such words, strongly resemble those used to advocate the elimination of some six million Jews in Europe, and particularly in Germany, to create an Aryan master race.

This philosophy is readily condemnable by common sense and quite contrary to the first right of every human being, the right to life. If children are actually abnormal or deformed, let us at least have the honesty of allowing them to come into the world, and then, if we have the courage, eliminating them.

## WELFARE OF OTHER CHILDREN

The reason favouring abortion for the purpose of providing for the greater well-being of children already born, as stipulated in article 2 of Bill C-136, does not seem to us sufficiently strong to destroy the life of an unborn child. The degree of civilization of a country is measured by the effective means it undertakes to protect those who are helpless and incapable of looking after their own needs. For unborn children, the strong and secure are all those actually living, who have come before them. Legislation should make it a duty to protect those who truly require such protection.

## RESPECT OF PERSONAL CONSCIENCE

Some advocate extension of the law on abortion in order to allow persons to choose for themselves, according to their conscience, whether it is better to preserve or destroy the life of an unborn child. Such persons must be told that the purpose of the law is not to replace conscience, but to ensure that the common good prevails and that the inalienable right to life of the weak, the helpless is not shoved aside by others.

## SOLUTIONS PROPOSED TO PREVENT ILLEGAL ABORTIONS

As the present bills are aimed at stopping illegal abortions which endanger the pregnant woman and the unborn child, we propose the following solutions:

1. Stricter application of the law on abortion; for example, simulation by pregnant women detectives.
2. Permit the sale and distribution of information on birth control, and the sale of contraceptives.
3. Assist organizations for sex and family education in their work: marriage preparation, home groups, etc...

At present, legislation prohibits the distribution of any information on birth control methods; it would seem logical to us that the law should permit the dissemination of information on birth control and that, in addition, the government should grant subsidies to organizations presently concerned with this matter so that users may be better informed and more responsible parents according to their means, their wishes and the human values they share.

Marriage preparation courses in the province of Quebec, birth control and family plan-

ning services do a tremendous work but are not supported by public funds. Among the poor, social agencies and municipal health services are only beginning the work of distributing information and merit greater support from federal and provincial governments. It is not that safe, effective and acceptable methods are lacking today, but it is difficult to obtain the necessary information to use them. For some, information alone is not sufficient; real psychological and social work is necessary to favour the integration of birth control within conjugal and family life. This work has only begun and should be encouraged first and foremost by this committee as a means to enable parents and persons wishing to have children to have them at the desired time and not only when nature herself decides to set the mechanism in operation.

4. Promote sex education in school within the framework of education in human relations.

5. Family allowance policy should be conceived in relation to family responsibilities and dependents and not only in relation to each child added to the family.

Social policy should be viewed from the standpoint of the family rather than that of the individual. For example, housing policies in the large cities should favour couples with children rather than unmarried persons or childless couples; unemployment statistics should take into account dependents (it is quite different from the social viewpoint to know whether the listed unemployed have or do not have dependents); employment policies should favour those with dependents, all things being equal, etc.

6. Encourage research on family education, birth control methods, social and psychological motivation for the use of contraceptives and their integration within family and conjugal life.

7. Encourage research on birth control methods and family education.

## PROPOSED AMENDMENTS TO THE TEXTS OF BILLS C-122, C-123, C-136 THE HOUSE OF COMMONS OF CANADA BILL C-122

### An Act to amend the Criminal Code (Abortion)

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Subsection (1) of section 209 of the Criminal Code amended by adding thereto the following:

Except when this person is a registered medical practitioner, if that practitioner and another medical practitioner, acting in good faith, are of the opinion that the continuance of the pregnancy would involve serious risk to the life to the pregnant woman.

## THE HOUSE OF COMMONS OF CANADA

### BILL C-123

#### An Act to amend the Criminal Code (Birth Control)

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. The Criminal Code is amended by adding thereto, immediately after section 45, the following:

"45A. No person shall be convicted of an offence under sections 209, 237 or 238 of this Act for terminating, or attempting or permitting or assisting in the termination of, a pregnancy or supplying or procuring anything for that purpose, if the pregnant requests termination of her pregnancy and the termination of such pregnancy is desirable in order to preserve the life of the pregnant woman and it takes place in an active treatment public hospital by or under the supervision of a duly qualified medical practitioner after consultation with and approval of the abortion committee established in such hospital, if such a committee has been established, or, if no such committee has been established, after consultation with and approval of at least one other qualified medical practitioner; provided, however, that if such pregnant woman is married, the consent of her husband shall be obtained, if he is reasonably available to give consent, and provided that if such pregnant woman is unmarried but is under the age of eighteen years, the consent of one of her parents or a guardian shall be obtained, if any such parent or guardian is reasonably available to give consent."

(The Family Institute recommends the omission of the terms "mental or physical health" of Bill C-123 proposed by Mrs. McKinnis).

## THE HOUSE OF COMMONS OF CANADA

### Bill C-136

#### An Act concerning the Termination of Pregnancy by Registered Medical Practitioners

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. This Act may be cited as the Termination of Pregnancy Act.
2. Every one person shall be guilty of killing an unborn child or of procuring a miscarriage when a pregnancy is terminated except when that person is a registered medical practitioner and when that practitioner and another registered medical practitioner are of the opinion, formed in good faith,

(a) (1) that the continuance of the pregnancy would involve risk to the life of the pregnant woman.

(2) any treatment for the termination of pregnancy must be carried out in a hospital or place approved for the purposes of this section by the Minister of National Health and Welfare or by the provincial authorities, as the case may be.

## CONCLUSION

Fully aware that our amendments are not in accordance with the bills presented nor with the opinions of a substantial proportion of the witnesses who have preceded me, who are more concerned with the person undergoing the abortion than with the unborn child, we shall do everything in our power, either through popular pressure, through demonstrations or even hunger strikes, if necessary, to prevent the proposed legislation from becoming law.

The fact that we are meeting here today to discuss abortion is perhaps due to the wisdom of previous law-makers who did not allow our lives to be held up to question and perhaps destroyed.

## BIBLIOGRAPHY

1. Myre Sim, M.D., D.P.M.,  
Abortion and the Psychiatrist, in *British Medical Journal*
2. Bernard Haring,  
*La Loi du Christ, (The Law of Christ)*,  
Vol. III

3. Philippe Garigue  
*Le Comportement Familial* (Family Behaviour),  
University of Montreal Press, 1967.
4. John L. Grady, M.D.,  
Abortion, Yes or No, A short treatise on  
the subject of abortion.  
Belle Glade, Florida, May 1967—Private  
publication (attached to brief)
5. J. L. McKelvey, M.D., in *Minnesota  
Medicine*,  
Volume 50, Pages 119-126—January 1967.
6. Eugene F. Diamond, M.D.  
Medical implications of the current abor-  
tion law in Illinois, in *Illinois Medical  
Journal*, Pages 677-680—March 15, 1967.
7. Three (3) talks given at the: Third Inter-  
national Symposium on Abortion and  
Rhythm organized by the National Com-  
mission on Human Life Production and  
Rhythm (New York Nov. 4/67).
  - (a) The Unborn child and the law—  
Robert B. Byrn
  - (b) A psychiatrist views abortion—Dr.  
Irving C. Bernstein.
  - (c) Abortion and Human community—  
Richard John Neuhaus.

## APPENDIX "JJ"

*Brief Submitted to the Standing Committee on Health and Welfare, Concerning the Amendment of the Laws on Abortion and Birth Control*, by Dr. Yves Lefebvre, President of the Family Planning Association of Montreal, and Dr. Michael Ball, Chairman of the Medical Committee of the Family Planning Association of Montreal.

This brief, which is concerned with both abortion and birth control, is presented by the President of the Family Planning Association of Montreal and by the Chairman of the Medical Committee of that association, in the belief that the information which is given, particularly where it relates to the law and practice of abortion and contraception in certain other countries, might be of assistance to the Standing Committee on Health and Welfare in drafting amendments to the Criminal Code of this country.

## PART I

It is suggested that the present law regarding abortion and birth control is subject to criticism on the following grounds:

a) *The law is not obeyed.* Although estimates of numbers of abortions are difficult to verify, there were 22 deaths ascribed to abortion in Canada in 1964, and only one of these deaths followed an operation carried out for medical or legal indications (Ref. D). Since the great majority of illegal abortions are not followed by a fatal outcome, it must be concluded that the number of illegal abortions is considerable.

Where the law is not strictly observed by doctors, a reliable ratio of 5.8 therapeutic abortions per 1000 deliveries has been given (Ref. 10, & Appendix C)

Where the law is strictly observed by doctors, women with unwanted pregnancies are driven to seek illegal abortions from unqualified persons, with consequent risk to life and health.

There are large numbers of abortions admitted to gynaecological wards of Canadian hospitals (34,930 in 1964, excluding Ontario) (Ref. 2)

This gives a ratio of one abortion for every 8.4 admissions for delivery. Many of these

may be spontaneous abortions, but many may be presumed to be suffering from the consequences of illegal abortions.

The law relating to the prevention of conception is so openly disregarded that the public has effectively anticipated all but the details of any legislation that may be passed.

b) *The law is not enforceable*, as is indicated by the number of convictions, which bears no relationship to the most conservative estimate of abortions carried out. This results partly from the atmosphere of conspiracy that exists between the woman and the abortionist, and partly from the natural reluctance of doctors to report a woman suffering from the consequences of an abortion. There were only 857 convictions for *all* offenses against women in 1963, (Ref. 3).

The law on birth control not only cannot be enforced, but there has been a little attempt made at enforcement since a test case in 1936.

c) *The law restricts medical practice.* The law on abortion obliges many medical practitioners against their conscience and clinical judgement to withhold a form of treatment, namely termination of pregnancy, in instances when they believe it to be in the best interests of the health of mothers and children.

The law on contraception has caused many medical schools to neglect this important subject in the training of doctors. (Ref. 4)

d) *The laws are out of line* with laws on contraception and abortion in many countries whose social and economic circumstance bear comparison with those of Canada (See Appendix A.)

Though it is recognised each of the above points may have been considered in detail by other witnesses, they are reiterated in order to emphasise that should legislation be enacted that does not fully take into account the situation that prevails, such criticisms will apply equally to the new legislation, and will cause the law to be brought further into disrepute.

## PART II

This brief presents outlines of the law and practice of abortion and birth control, together with certain information on population rates, religion, and economic levels in 27 European countries.

Similar information for Canada is also shown in the belief that the formulation of laws in Canada might be assisted by a consideration of the situation existing in other advanced countries. (See Appendix A.)

Notes of the Interpretation of Appendices A, B and C

1) At the risk of oversimplification, facts are presented in a highly abbreviated form, to permit ease of references. Full details of such laws are usually to be found in the "International Digest of Health Legislation".

2) Distinction should be drawn between information on population and birth rates, which is of a high order of reliability, and figures on illegal abortions, arrived at of necessity by indirect methods of calculation, or in some cases by informed opinion only.

3) It is not generally recognised that fifteen European countries have liberal or permissive abortion laws. In three more abortion is tolerated for medical indications, and in seven there are severe laws. No data was available on two.

4) Certain western European countries, notably the Scandinavian countries and Switzerland, have liberal abortion laws. These tend to be wealthy countries with well developed social security systems, and with few Catholics.

Those western European countries which are predominantly catholic whether less wealthy (Ireland, Spain, Portugal) or more wealthy (France, Belgium) have rigid abortion and contraception laws, associated with reports of high criminal abortion rates.

East European (Communist) countries mostly have liberal abortion and contraception laws, though many have predominantly catholic population. Criminal abortions are reported there to be considerably reduced. (Ref. 5)

5) Information is not complete, but severe abortion laws are in general associated with a high rate of illegal abortions, and liberal laws with a lower rate.

6) Liberal abortion laws are to be found in countries with high birth rates as well as in countries with low birth rates.

7) The birth rate gives little or no indication of the rate of population growth. Sweden has the lowest birth rate, but its people survive to give that country an 8 per cent increase in population in 10 years. Portugal, however, has a similar rate of increase in spite of a much higher birth rate. Population growth, (ignoring the question of immigration and emigration) is a result of the difference between the birth rate and the death rate.

8) Canada's birth rate (1961) was higher than any European country (with the exception of Albania only). The result of such a high birth rate on this country, where death rates are low, was an explosive increase in population. (30 per cent in 10 years.)

Many European countries are concerned about the possible effect of population increase rates of less than one third of this figure on their ability to provide education, health and welfare, housing and eventually employment for the increasing numbers of children and dependent persons that this increase represents. However there is little evidence to suggest that liberal abortion laws have much influence on birth rates or population growth in Europe.

Rather do these laws represent a rational approach to the control of a major public health problem, that of abortion, which itself suggests a need for more effective birth control measures.

In countries where the grounds for abortion have been extended to include social and economic factors, the numbers of abortions for declared medical reasons have fallen. (Ref. 5).

From this one might conclude that legislation which permits only medical (or psychiatric) grounds for abortion has not fully recognised the extent of the problem of the unwanted pregnancy, and does not adequately protect those women who are determined not to proceed with their pregnancy for a variety of social reasons.

IT IS RECOMMENDED that any future legislation defining the reasons for which an abortion may be carried out, should take into account the laws and practice in those countries where the existence of liberal laws has enabled a more humanitarian and realistic approach to the problem to evolve.

Liberal abortion laws can only serve to reduce the amount of risk and suffering arising out of the unwanted pregnancy and from illegal abortions, whilst at the same time they leave those women and doctors whose views are opposed to such liberalisation free to act according to their own consciences.

# APPENDIX A THE LAW AND PRACTICE OF ABORTION AND CONTRACEPTION IN EUROPE (Ref. 6)

Country	Abortion	Contraception	Selected Statistics (Refs 7, 8, 9)				
			Population Millions	Popu- lation increase in 10 yrs.	Birth rate 1961	Catholic popu- lation 1961	Per Capita income 1961
			1951	1961	%	%	\$
Albania.....	No data.....	No data.....	1.2	1.7	35	41.2	280
Austria.....	Few abortions for medical reasons, which is permitted. Many abortions for pseudomedical indications in private consulting rooms. Yearly 200,000-300,000 criminal abortions.	Religious and political opposition. Pills on prescription. Black market contraceptives.	6.9	7.1	2	18.6	1,989
Belgium.....	Severe laws. Abortion is tolerated to save woman's life. 30,000-200,000 illegal abortions yearly.	FPA, though laws forbid contraception propaganda.	8.7	9.2	6	17.2	1,540
Bulgaria.....	Liberal abortion laws. Legal abortions are sometimes performed even in 6th month (girls up to 14 years). Births: legal abortions 1:1. Illegal abortions 1%.	Contraception free, but weakly developed: coitus interruptus and condom. No up-to-date contraceptives. Their import permitted since the end of 1960.	7.3	7.9	9	17.4	880
Czechoslovakia.....	Liberal abortion laws. In 1963 71,000 permitted interruptions per 236,000 births, and 29,000 spontaneous abortions and 10,000 illegal abortions yearly.	Contraception is propagated by public health service. All contraceptives manufactured.	12.5	13.9	11	15.8	900
Denmark.....	Liberal abortion laws. In 1958, 52 permitted abortions per 1,000 births.	Government participation in FPA activities.....	4.3	4.6	7	16.7	1,740
Finland.....	Abortion permitted for medical reasons. 30,000 criminal abortions per 80,000 births yearly.	FPA government support.....	4.1	4.5	10	18.3	1,550
France.....	Severe anti-abortion laws. Few permitted therapeutic abortions. About 400,000-1,200,000 criminal abortions per 800,000 births.	FPA membership society. Recent legislation repealing the 1920 law banning contraception. Government control of contraceptive supplies.	41.9	46.0	10	18.1	1,020
Germany East.....	Abortion permitted for medical reasons. 60,000 illegal abortions yearly.	Government support FPA.....	17.2	16.1	-6	17.7	1,260
Germany West.....	Abortions permitted for therapeutic reasons, but they are not numerous. Criminal abortions: births 1:1.	FPA not very active. Opposition from the medical profession still very strong. Substantial manufacture of contraceptives.	48.4	54.0	12	18.3	1,020
Greece.....	Abortion forbidden, but tolerated for medical reasons. Criminal abortions are very numerous.	No national FP organisation. Some medical research and support. Contraceptive drugs prohibited for contraception, but allowed for therapy.	8.0	8.4	5	18.5	600
Hungary.....	Exceedingly liberal abortion laws. In 1961, 170,000 legal abortions per 140,400 births, and 33,000 spontaneous and illegal abortions.	Contraceptives given by public health service. Shortage of contraceptives, import restrictions. Home-made IUD from fishing line.	9.5	10.0	5	14.0	870
Iceland.....	.....	A social institute offers advice via maternity hospital.	(185,000)	.....	.....	25.9	830

[illegible]

## APPENDIX B

## REASONS FOR ABORTION UNDER TWO LIBERAL ABORTION LAWS

	%
Czechoslovakia, 1965	
Medical reasons.....	20
Social reasons	
3 or more living children.....	35
Unmarried women.....	13
Housing.....	9
Family disruption.....	5
Financial.....	6
Over 43 years old.....	3
Others (Rape, Invalid husband, etc.).....	9
Yugoslavia (Slovenia), 1965	
Medical reasons.....	6
Social reasons	
Economic and Social.....	30
Housing.....	23
Family relations.....	16
Disease in Family.....	6
Marital relations.....	3
Alcoholism.....	4
Personal.....	9
Other.....	2

Reference:—Dr. Malcolm Potts, Fellow of Sydney Sussex College Cambridge, England. Press Conference in the House of Commons, (London) 31st January 1967.

APPENDIX C

CANADA

THERAPEUTIC ABORTION AT THE TORONTO GENERAL HOSPITAL, OVER 12 YEARS

1954-1965

Reasons	No. of Cases	%
Psychiatric.....	90	34
Rubella.....	41	16
Cardiovascular.....	28	11
Others.....	103	39
Abortion rate per 1000 deliveries.....		5.8

TRENDS IN THERAPEUTIC ABORTION IN 4 YEARS PERIODS

	1954-57	1958-61	1962-65
No. of cases.....	66	76	120
Proportion of psychiatric cases.....	15%	33%	58%
Abortion rate per 1000 deliveries.....	4.5	4.9	7.8

Reference:—Manuel M. Spivak, American Journal of Obs. and Gyn., 1967 Vol 97, No. 3, pp. 316-322

REFERENCES

1) Causes of Death, Canada 1958-64 (84-519) Dominion Bureau of Statistics.

2) Hospital Morbidity, 1964 (82-526) Dominion Bureau of Statistics (La morbidité hospitalière, 1964 (82-526) Bureau Fédéral de Statistiques

3) Canada Yearbook, 1963

4) Tietze et al., Canad. Med. Ass. J. Apr. 2, 1966, Vol. 94, pp 717-722

5) Potts M Abortion in Eastern Europe—The Lessons for Britain. Report of a Press Conference held in the House of Commons, (London) 31st January 1967

6) Novak F. World-wide problems of abortion-Europe 8th Conference of the International Planned Parenthood Federation, Santiago, 1967

7) Maternity Care in the World (International Federation of Gynaecology and Obstetrics and the International Confederation of Midwives) London Pergamon Press 1966

8) World Bank Atlas; Per capita Product, Population, Main Urban Centres; Washington, I.B.R.D. 1967

9) World Christian Handbook, London, World Dominion Press, 1962

10) Spivak M., Am. J. of Obs. and Gyn. 1967, Vol 97, No. 3. pp. 316-322

## APPENDIX "KK"

STATEMENT ON ABORTION  
PRESENTED TO THE STANDING  
COMMITTEE  
ON HEALTH AND WELFARE  
BY THE FAMILY CENTRE OF OTTAWA

*A Description of Organization—Its Purpose  
and Program*

The Family Service Centre is a member agency of the United Appeal, it is a private, non-profit, non-sectarian agency serving Metropolitan Ottawa and environs. The Agency is a member of the Family Service Association of America, an accrediting body which sets standards of professional practice.

PURPOSE AND FUNCTION

As a *Family Agency*, the general purpose is to help in the promotion, development and maintenance of family interrelationships; to strengthen positive values of family life and promote healthy personality development and satisfactory social functioning of the individual members of the family; and do so through the provision of family counselling, parent education and direct services to children as well as through our involvement in social action. We believe family life can be strengthened through social measures which assist and encourage responsible parenthood.

As a *Social Agency* we desire to alleviate human suffering and to assist and support social measures which will provide for maximum and individual development.

As a family agency, we advocate greater liberalization of abortion laws and support Bill 122 because it is expeditious. It does not require the mandate of a special hospital board and therefore takes cognizance of the time factor. The time factor is of prime importance in a pregnancy and in special circumstances, for example an automobile accident, is crucial. However, we would like to have Bill 122 amplified to include codes

extracted from Bill 136. We are therefore requesting the deletion of the following paragraph from Bill 122—

"that the continuance of the pregnancy would involve serious risk to the life or grave injury to the health, either physical or mental, of the pregnant woman"

and its replacement by—

"(a) (i) that the continuance of the pregnancy would involve risk to the life or of injury to the physical or mental health of the pregnant woman or the future well-being of herself and or the child or her other children:

(ii) in determining whether or not there is such risk of injury to health or well-being account may be taken of the patient's total environment actual or reasonably foreseeable."

As a family agency we have encountered situations where the pregnant mother and the total family is subjected to a traumatic experience, often resulting in psychiatric breakdowns when:

- (a) an unwanted pregnancy occurs in an already disintegrating family and where the community resources for the placement of a child in such circumstances are non-existent.
- (b) the mother is an unmarried young adolescent.
- (c) the pregnancy is the result of rape or incest.

As a non-sectarian agency, we find that our clientele reflect a variety of attitudes toward abortion. In a pluralistic society such as ours, family values, patterns of behaviour and the inter-play of religious, social, economic and cultural factors play a very important role. Therefore, in our opinion the liberalization of abortion laws should provide for maximum consideration of the individual circumstances involved and the diversity of attitudes and values held in our Society.



OFFICIAL REPORT OF MINUTES  
OF  
PROCEEDINGS AND EVIDENCE

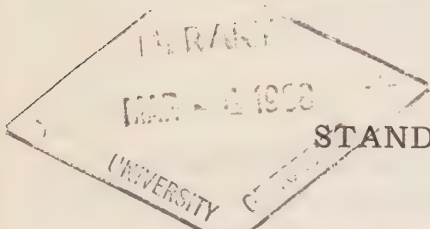
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ALISTAIR FRASER,  
*The Clerk of the House*

HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1967-68



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STANDING COMMITTEE  
ON  
**HEALTH AND WELFARE**

*Chairman:* Mr. HARRY C. HARLEY

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**MINUTES OF PROCEEDINGS AND EVIDENCE**

No. 18

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**TUESDAY, FEBRUARY 6, 1968**

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Respecting the subject-matters of

Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

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**WITNESSES:**

*Representing The United Church of Canada:* Rev. W. Clarke MacDonald, Chairman, Board of Evangelism and Social Service, Minister, St. Luke's United Church; Rev. J. R. Hord, Secretary, Board of Evangelism and Social Service; Mr. Alfred Best, Q.C., Solicitor; Dr. Patricia White, Psychiatrist, University Health Services, University of Toronto; and Dr. Marjorie Moore, M.D., Obstetrician, Out-Patients' Staff, Women's College Hospital, all of Toronto.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1968

STANDING COMMITTEE ON HEALTH AND WELFARE

*Chairman:* Mr. Harry C. Harley

*Vice-Chairman:* Mr. Gaston Isabelle

and

Mr. Allmand	Mr. Forrestall	Mr. Orange
Mr. Ballard	Mr. Howe ( <i>Wellington Huron</i> )	Mrs. Rideout
Mr. Brand	Mr. Knowles	Mr. Rochon
Mr. Brown	Mr. Laverdière	Mr. Rock
Mr. Cameron	Mr. MacDonald ( <i>Prince</i> )	Mr. Rynard
( <i>High Park</i> )	Mrs. MacInnis ( <i>Vancouver-Kingsway</i> )	Mr. Simard
Mr. Chatterton	Mr. Matte	Mr. Stanbury—(24).
Mr. Cowan		
Mr. Enns		

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

TUESDAY, February 6, 1968.

(21)

The Standing Committee on Health and Welfare met this day at 11.22 o'clock a.m. The Chairman, Mr. Harry C. Harley, presided.

*Members present:* Mrs. MacInnis, Mrs. Rideout and Messrs. Allmand, Brand, Chatterton, Cowan, Forrestall, Harley, Howe (Wellington-Huron), Isabelle, Knowles, Macdonald (Prince), Rock—(13).

*In attendance: Representing The United Church of Canada:* Reverend W. Clarke MacDonald, Chairman, Board of Evangelism and Social Service, Minister, St. Luke's United Church; Reverend J. R. Hord, Secretary of the same Board; Mr. Alfred Best, Q.C., Solicitor; Dr. Patricia White, M.D., Psychiatrist, University Health Services, University of Toronto; Dr. Marjorie Moore, M.D., Obstetrician, Out-Patients' Staff, Women's College Hospital, all of Toronto.

The Committee resumed consideration of the subject-matter of Bills C-122, C-123 and C-136.

The Chairman introduced Reverend MacDonald who introduced the other members of the delegation.

Reverend MacDonald thanked the Committee for the opportunity given to the United Church to present a brief and made an opening statement; he summarized the brief.

*Agreed,—*That the submission from the United Church of Canada and the statement in conjunction with it by Reverend J. R. Hord, be printed as appendices to this day's proceedings. (*See appendices "LL" and "MM"*).

*Also agreed,—*That a letter received from Reverend David Burns of Kitchener, Ontario, Minister of the United Church of Canada, be printed as appendix to this day's proceedings. (*See appendix "NN"*).

The representatives of the United Church were questioned.

Reverend Hord tabled, for the information of the Members, two booklets, one entitled "Mothers' Aid in Denmark", the other, "Therapeutic Abortion and The Law in Sweden", also a book "Japan's Experience in Family Planning—Past and Present (March 1967)".

The witnesses were further questioned.

The questioning concluded, on behalf of the Committee the Chairman thanked the United Church of Canada and the delegates for their presentation; Reverend MacDonald expressed his appreciation to the Committee members for their work, and at 1.30 p.m. the Committee adjourned to 11 o'clock a.m. Thursday, February 8, at which time the Catholic Hospital Association of Canada will present a brief.

Gabrielle Savard,  
Clerk of the Committee.



## EVIDENCE

*(Recorded by Electronic Apparatus)*

• 1120

**Tuesday, February 6, 1968.**

**The Chairman:** Ladies and gentlemen I think we can start the meeting. There are no particular matters of correspondence I want to bring to the attention of the Committee at this time. I will bring a letter to your attention later on during the testimony.

**Mr. MacDonald (Prince):** Mr. Chairman, has there been no reply from the Canadian Catholic Conference at all?

**The Chairman:** Not to my knowledge. I might say that on Thursday the Catholic Hospital Association of Canada will be presenting a brief to us and it may be we will have a reply by that time, but I am not aware of anything to date.

Are there any other further questions? If not, I would like to introduce the representatives of the United Church of Canada. I will ask the Reverend W. Clarke MacDonald, who is the Chairman of the Board of Evangelism and Social Service of the United Church of Canada to introduce his colleagues and to present the brief.

**Reverend W. Clarke MacDonald (Chairman, Board of Evangelism and Social Service, The United Church of Canada; Minister, St. Luke's United Church, Toronto):** Mr. Chairman and members of the Committee, I first of all want to thank you for this opportunity of being here today to present our brief and for the courtesies which you are extending to us here. If I may introduce our delegates or representatives, on my right is Dr. Marjorie Moore, who is an obstetrician at the Women's College Hospital in Toronto. She is also a wife and mother. Next to her is Dr. Patricia White, who is a psychiatrist with the University Health Services at the University of Toronto. She deals with problems which are related to our brief and your work with respect to the students at the university. Dr. White is also a wife and mother of a family. Dr. J. R. Hord is the Secretary of the Board of Evangelism and Social Service and as such, of course, he has had a considerable

amount to do with the preparation and background of our report today. Mr. Alfred Best, Q.C., is a lawyer. He is a member of a law firm in the city of Toronto and he is also a member of the Board of Evangelism and Social Service.

If I may, I would like to state briefly the background of our recommendations and brief.

As you are probably aware, in its membership, the United Church represents one million Canadians and its adherents number approximately another four million Canadians. While it cannot be said that any one statement by the General Council or its Sub-Executive is adhered to by all of these persons, nevertheless, as in a democracy, it represents the majority opinion of the body which is expressing itself.

The General Council, which is a biennial gathering of representatives of the church across Canada, considered this matter in 1960 and again in 1966. At the 1966 General Council a resolution was passed that we should prepare a statement to submit to the appropriate group, committee or body when this matter came up for discussion in the nation. That is the background, from the point of view of the General Council, which brings us here.

Subsequent to the 1966 General Council the Board of Evangelism and Social Service, which already had made a study of this matter, had as one of its advisers or consultants Dr. D. M. Low, who for 40 years has been an obstetrician, gynaecologist and a professor in this department at the University of Toronto. Dr. Low has been our main medical consultant in this regard. A sub-committee prepared the first draft of the brief which you have today, and it went through a number of sieves after that—which is the procedure in any kind of brief, I assume—and it was subsequently approved by the Board of Evangelism and Social Service executive and it comes to you today from the Sub-Executive of the General Council of the United Church of Canada.

I do not think I need to take any time in outlining the details of our brief. The Chairman has indicated that it is not necessary that it be read. You have already done this privately. I will give you a quick summary of it and then the matter will be open for discussion under the direction of your Chairman.

We take the position that the present laws regarding abortion ought to be amended. We do so on the basis that the laws as they now exist are harsh, conflicting and unfair to women who are seeking abortions, and especially so "to the young and to the poor". We then go on to indicate our concern that in the amending of these laws a therapeutic abortion committee ought to be set up which would make its recommendation when the matter came up in a given situation and that qualified medical personnel and hospital care ought to be provided for a patient who is to be a recipient of this treatment.

We then finally go on to indicate that there should be a strong counselling team, so that any pregnant woman seeking an abortion would have wise and sympathetic counsel, both as to the advisability of the abortion and the possibility of going on to the completion of her pregnancy. We also feel that again subsequent to the decision, there ought to be counselling so that this woman, whether she had her child or did not have her child, would be able to face all the traumatic implications of the decision to which she had come, whichever decision that may have been. Throughout the brief our main emphasis is placed on the fact that the important person to be considered is the person who is actually being dealt with at the particular time, namely, the mother. This is the important consideration in every case.

With that brief summary, Mr. Chairman, I leave it to you and your Committee so far as the procedure is concerned.

**The Chairman:** Thank you very much, Mr. MacDonald. Before we proceed with the questioning, is it agreed that this brief will become part of the minutes of today's proceedings?

**Some hon. Members:** Agreed.

**The Chairman:** As Reverend MacDonald has said, the brief which is being presented today is a majority report of the United Church of Canada. However, we do have a correspondent's minority report from a minister of the United Church of Canada who is taking a view which is opposite to that pre-

sented in the brief today. I thought it would be more or less appropriate at this time to ask for approval to include it also in the minutes of today's proceedings.

**Mr. Forrestall:** How opposite is the view?

**The Chairman:** He opposes the grounds being widened on the basis of health. He would restrict it to life.

**An hon. Member:** Could you give us his name, please?

**The Chairman:** The Reverend David Burns, who is a United Church minister from Kitchener, Ontario.

**Mr. Forrestall:** Fine, thank you.

**The Chairman:** Is this agreed?

**Some hon. Members:** Agreed.

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, is this extra brief also going to be included?

**The Chairman:** Yes. We will take it as part of the presentation today and it will be included as part of the minutes of today's proceedings.

**Rev. W. Clarke MacDonald:** In the light of further discussion publicly on this matter, Dr. Hord prepared a statement subsequent to the preparation of the brief.

**Reverend J. R. Hord (Secretary, Board of Evangelism and Social Service, The United Church of Canada, Toronto):** Mr. Chairman, I would like to point out that in 1966 when the General Council passed the resolution at the back of the brief—which is quite a detailed position of the church and it was discussed quite thoroughly in General Council—there was no recorded opposition, so Mr. Burns' position would probably represent a very small minority.

**The Chairman:** Yes, it is really his personal viewpoint. That is the only way the Committee can consider it, as his personal viewpoint. The meeting now is open for questioning. Are there any questions?

**Mr. Chatterton:** Mr. Chairman, the brief recommends abortion where the mother's life or health is at stake. I would like to ask Dr. White if "health" would include psychiatric conditions of the mother?

**Dr. Patricia White (Psychiatrist, University of Health Services, University of Toronto, Toronto, Ontario):** Yes, I believe it should include psychiatric conditions. I realize this is a very difficult area to define and those who have had to work with this definition have had a problem. In some people's minds it can even include social health. It can be a complete disruption, for instance, of their way of life.

**Mr. Chatterton:** We have had evidence that an abortion in some cases does not solve or improve a psychiatric condition. As a matter of fact, it might actually worsen it.

**Dr. White:** This is why I think it is very important that there should be consultation and support for the mother to help her to decide perhaps, not to have an abortion. The point we are trying to make is that at present the attitude against abortion is such that young people do not even consult a doctor. They have their own underground system at work and they will go to an illegal abortionist even before they talk it over. There is a great deal of group pressure applied, such as, "I can get you money" or "I know a person", et cetera, et cetera. We see them later, either at a stage when their fertility for life has been destroyed or when they have to go through a tremendously traumatic experience which, if they had gone through it in a more open situation, would have been better. I feel that even a therapeutic abortion is a traumatic experience. Any kind of surgery is traumatic. A therapeutic abortion may be traumatic but at least it takes place in a clinical, open atmosphere where a girl can deal with her feelings openly. On the other hand, if she has to deal with an occult, hidden, secret situation these feelings become repressed and they are more likely to cause a repetition of this behaviour, because it is a psychiatric fact that feelings which are undealt with get acted out more and more. I think you get into a promiscuous cycle when a girl has not had an opportunity to deal with her feelings. It is traumatic in all cases. Even a spontaneous abortion is hard on a woman.

**Mr. Chatterton:** Would you say there are many cases where abortion would be recommended on psychiatric grounds?

**Dr. White:** Yes, there are some girls who simply cannot tolerate the stress of having to go through—

**Mr. Chatterton:** Is it rare?

**Dr. White:** It is not rare. We see quite a few of these cases. It is difficult to say what the numbers are, but I do not think it is rare. I think there are a lot of such girls. Who are the girls who become pregnant outside of marriage? There are a great variety of them, but on the whole they tend to be the most immature, the most impulsive, the most incapable of dealing with continuing pregnancy and parenthood. Many of these girls are thrust into a position with which they feel they cannot deal, they will sometimes choose suicide as an alternative or as an out.

**Mr. Chatterton:** Would you say if many of these girls who now go to back-room abortionists were given proper psychiatric treatment that this would be avoided?

**Dr. White:** I think if they had an opportunity to go to a doctor at the health service, or wherever they are most likely to approach a doctor—perhaps to their family physician—and if they can go openly and talk about it he can help them to either go through with the pregnancy or perform an abortion therapeutically, whichever procedure he feels is best in the particular case. In any event, he can deal with all the emotions that led up to her becoming pregnant, her feelings about the situation, about the man, et cetera, et cetera. There are so many things to be considered. Precipitate marriages and running off to illegal abortionists and the matter of back-room practices are things which I think we really have to try to handle.

**Mr. Chatterton:** Would you say that the psychiatric condition of the girl's family should also be considered?

**Dr. White:** Oh yes, I do.

**The Chairman:** Mr. Allmand?

**Mr. Allmand:** I am re-considering my question. I would like to wait for a while.

**The Chairman:** Mr. Forrestall?

**Mr. Forrestall:** I would like to continue questioning Dr. White, if I may. We were told by two groups of your professional discipline that appeared before us that there are no longer psychiatric indications for abortion. That indeed therapeutic abortion aggravates these psychiatric indications, contrasted with the continuation of the pregnancy to full term and delivery of the child. Could you tell us—and you have indicated that you use the word—if you have run across many cases where

abortion was indicated for psychiatric reasons? You used the term "many". Could you be a bit more specific? From your own experience could you tell us how many? Was it four or five?

**Dr. White:** I am not sure I understood the question.

**Mr. Forrestall:** You indicated to us, doctor, that you are completely satisfied there is a psychiatric indication for therapeutic abortion. We have been told by more than one group of people from your own particular discipline that in their opinion there is no longer a valid psychiatric indication for therapeutic abortion. Could you be specific? You say "many". How many?

**Dr. White:** I cannot give you numbers because we see people one at a time. That is a small distillation of the people we see from the group who go off and get illegal abortions. We may see them in the depression period that follows. It takes much longer to work through the disturbed feelings of a girl who has had an illegal abortion than one who has had a therapeutic abortion. I agree that a therapeutic abortion does not solve her personality problem. She needs help with the very factors that led to her becoming pregnant in the first place. Sometimes these are part of a disturbed personality and sometimes they are simply part of an impulsive love situation, which we can all imagine very clearly.

**Mr. Forrestall:** Could I then ask you this question, Doctor. In your professional capacity, how would you suggest that as a layman I can reconcile this conflict? Indeed, your opinion is valid and so is the opinion of others. How do you suggest this Committee should go about sorting out this conflict?

**Dr. White:** I suggest that any committee set up to decide on therapeutic abortion or otherwise should be made up of a group of people with varying opinions so that they can discuss each case individually. I do not think we can ever get away from looking at each case individually. I know it is time-consuming, but life is precious and I think this is how we have to deal with it.

**Mr. Forrestall:** You are suggesting that there is no valid system in operation, for example, for assessing an appreciation of the experiences of the people involved.

**Dr. White:** I think we run into difficulty because if we say that it is a suicidal risk, we know some girls who are determined to obtain an abortion will put on an act. Some of them have said, "I am not the kind of person who is going to put on an act, but this is completely disrupting to my life and I do not want this baby. It is not the right time in my life to have a baby. It is all wrong for me."

**Mr. Forrestall:** In that particular case, Doctor, it is not on psychiatric grounds, it is on social or economic or something else.

**Dr. White:** Exactly, but I am saying that I think this is also valid. Where there is a psychiatric indication it has to do with the stability of the person to go through with the pregnancy.

**Mr. Chatterton:** A supplementary, Dr. White. Did you say you felt that socio-economic conditions should also be considered?

**Dr. White:** Yes. I am saying that the person's whole attitude toward the pregnancy should be considered.

**Mr. Chatterton:** This is apart from psychiatric considerations?

**Dr. White:** Yes.

**Mr. Chatterton:** Socio-economic?

**Dr. White:** Yes, I am saying that.

**Mr. Chatterton:** This is not part of the brief, then?

**Dr. White:** No, that is not part of the brief.

**Rev. W. Clarke MacDonald:** Of course, the entire position taken in the brief is that it is the person who counts. Speaking for myself, I would assume that anything that affects the person is a contributing factor. This is what Dr. White seems to be telling me.

**Dr. White:** May I underline this by saying that the whole experience of pregnancy and parenthood is one which I think all young men and women should have an opportunity to look forward to. Because of all sorts of impulsive behaviour, and all the forces that are pushing our young people into experimenting with sex and the inadequate help at home to deal with their attitudes about sex, there is a lot of pressure on acting out love feelings and sexual behaviour, and so on. A girl can become pregnant—as I would call it—accidentally, because rarely does a young woman relate time of ovulation with her behaviour at any one moment in terms of

love, and then she has to deal with the result. Some people say that she ought to suffer the consequences of her behaviour, but every time a person goes through a red traffic light accidentally it should not have to result in his death.

I feel she should have an extended choice with respect to the results of this particular kind of behaviour and that it should be extended into the period when she knows she has become pregnant. This is a very bad time in life for her to become pregnant; she is not ready to become a mother and she is not even ready for the experience of having a baby and giving it up for adoption. I think it is very punitive to force a person through this when they are not ready for it. I realize we cannot solve all our problems by changing any one thing. There are a whole lot of other matters that have to be dealt with.

**Mr. Forrestall:** Of course not. In other words, the answer is there are other areas that have to be pursued much more vigorously than the question of abortion.

**Dr. White:** Of course.

**Mr. Forrestall:** May I ask a question of Reverend MacDonald, whom it is a privilege to have appearing here. I would like to ask, Mr. MacDonald, if in your consideration you decided, at some point not necessarily that every child has a right to be born or that every child wants to be born, or anything like that, but where did you draw the line about human life? What is the attitude of the United Church with regard to the life itself?

**Rev. W. Clarke MacDonald:** In our brief, and also in the article by Dr. Low on therapeutic abortion to which I made reference, we take the position that the foetus has an accruing value; that from the time conception takes place there is an accruing value, and in all of this the primary consideration ought to be for the life of the one who is now living, which is the mother. This can be taken theologically, if one want to take it that way, or sociologically. I do not know how you take it, but at the beginning the foetus has within it the potentiality of a child. It is not a human child, although it has within it the potentiality of a child.

**Mr. Brand:** But it is really not a personality until it is born, is it?

**Rev. W. Clarke MacDonald:** This would be my opinion, yes, it is not a personality.

**Mr. Chatterton:** As a supplementary question, do you think it is right to say, for instance, that in the seventh month of pregnancy because of the accruing value of the foetus, that it is possibly only the life of the mother that might be considered and not her health?

**Rev. W. Clarke MacDonald:** May I turn this over to Dr. Moore?

**Dr. Moore:** As to the value of life, when I see a pregnant woman I see the mother herself, a woman in early pregnancy. That woman, her life, her health and her personality are important to me. But the worth of the foetus increases as age goes on. I am sympathetic to those who are concerned with the protection of the life of unborn infants but I think emphasis must be placed on the whole moral climate in our country in a situation where the university girls whom Dr. White sees are in mortal danger or having their lives completely disrupted by frequent pregnancies. I must say, with all superiority, that this did not happen in our day at university. It is the moral climate that prevails.

I think if the law remains as it is and every single girl who gets pregnant has to bear her child, then the whole country has to support these girls and with much more aid to the unmarried mother, assistance for her to keep her child, more day nurseries and more psychological and psychiatric help for the mothers and their children. In my practice the recent therapeutic abortion cases I have examined for psychiatric indications have been married women who grew up in loveless homes. They were sufficiently emotionally disturbed that they have had to have psychiatric help in the past. They presently have one or two children with whom they are just able to cope. Along comes another pregnancy and a psychiatrist will be able to say in all honesty, "This woman will certainly have a mental breakdown if the insult of one more stress is placed upon her". This is not just economic, this is emotional and health, and for the sake of her family as well as the woman this pregnancy must be terminated. I have followed these women through this situation and their health is better afterwards. Naturally they are sterilized at the time the pregnancy is terminated. When a woman in a similar situation comes along the next time...

**Mr. Forrestall:** I am sorry, that is something I did not understand. Is that a natural consequence of abortion for psychiatric indications?

**Dr. Moore:** Yes, we give very serious consideration to sterilizing in the case of termination of pregnancy.

**Mr. Forrestall:** Does it invariably happen that sterilization is part of it?

**Dr. Moore:** Very frequently. I would not say invariably, but very frequently. We say that this woman is incapable of having this pregnancy; she is incapable of coping with any pregnancy. Of all the indications we see, this one is psychiatric and it is fairly common among the psychiatric indications. When you see a woman you get to know her as a patient, you get to know her emotional background, and this is a repetitive thing. If she has grown up in a loveless home and her own home is loveless then the thing snowballs and society has to pick up the pieces of these psychologically damaged children. The end result is that after such a woman has had a child—with which you hope she can cope—you then offer her sterilization. This is a fairly new concept and we are trying to prevent the need for therapeutic abortion by recommending sterilization to every woman whom we think on the next occasion may come along and say: "I am pregnant and I cannot cope."

**Mr. Chatterton:** Mr. Chairman, I did not get an answer to my question. The brief appears to say that you have to consider the health of the mother balanced against the interest of the foetus. It says that the foetus has an accruing value. In other words, the greater the growth the greater its value. Is my interpretation that the foetus has an accruing value correct? In other words, in the seventh month of development it has a greater value than in the seventh week?

**Dr. Moore:** In the seventh month one would almost never do an abortion.

**Mr. Chatterton:** Maybe that is an extreme, let us say the sixth month.

**Dr. Moore:** It is not so much in terms of value as weighing the value of the mother and the baby. I must say I have not had to make this decision where the problem comes up at a certain stage and you have to make your decision then no matter what the age of the foetus. You do not say: "If only she had come to me at four months instead of six we would have made a different decision".

**Mr. Brand:** Do you think 20 weeks is the margin?

**Dr. Moore:** In the law it has been put down as 28, but a viable foetus is now 20 weeks.

**Mr. Chatterton:** Perhaps I should put my question to Reverend MacDonald. I think your brief indicates that you consider the foetus as having an accruing value.

**Rev. W. Clarke MacDonald:** Yes.

**Mr. Chatterton:** I take it that it has greater value in its 21st week than in the first week.

**Rev. W. Clarke MacDonald:** It depends on what we mean by the word "value", sir. What we mean here by "value" is that the foetus is getting nearer to the totality of a person. At the very beginning it has the potentiality of a person, and obviously as it gets closer to the 9th month it increases in the development of this potentiality. That is what we mean by the "accruing value".

**Mr. Chatterton:** Therefore it has a greater right at that time. If you try to balance the right of the mother, or the mother's health—I am not speaking about the mother's life now.

**Rev. W. Clarke MacDonald:** Yes.

**Mr. Chatterton:** If you try to strike a balance between the interest of the mother's health and the interest of the foetus, you would have to give greater weight to the interest of the foetus if it has greater value.

**Rev. W. Clarke MacDonald:** That is right.

**Mr. Chatterton:** In other words, then, let us say in the 21st week, the 20th week, whatever criteria you use, it may be that even though the mother's health might be affected the interest of the foetus would take precedence, whereas in the first week that would not apply.

**Rev. W. Clarke MacDonald:** I do not think that at any point the interest of the foetus takes precedence over the total health and well-being of the mother, and especially the life of the mother.

**Mr. Chatterton:** Then what is the point in saying that a foetus has an "accruing value"? When I ask if that foetus would be given greater consideration at 21 weeks of development than in the first week of development, you in effect say no. What is the purpose in saying that a foetus has an "accruing value"? In your brief you deny that it is a human being until it is born, is that right?

**Rev. J. R. Hord:** Mr. Chairman, at a certain stage the birth is induced and you try desperately to save the life of this little premature child. This shows that the child has worth and you try to save him if it is possible for him to be a living personality. But primarily you also have to save the life of the mother.

**Mr. Chatterton:** We are not talking about induced abortion now. We are talking about abortions that will be formally authorized by a committee. According to your brief you must strike a balance between the interest of the mother's health—not referring to her life—and the interest of the foetus.

**Rev. J. R. Hord:** As the Chairman said, the life and health of the mother comes first.

**Mr. Alfred Best (Solicitor, Best, Hornell, Karswick and Saunders, Toronto, Ontario):** May I interrupt, Mr. Chairman? There is a very specific answer to our friend's question on page 5. The last sentence in the penultimate paragraph reads:

"For those who deem the embryo to be a human being with rights, the choice lies between the rights of the *actual* human being, the *mother*, and the *potential* or hypothetical, the *embryo*. The actual has prior claim."

**Mr. Chatterton:** Does that mean the health of the mother is to be given greater concern than the life of the foetus?

**Mr. Best:** I would say yes in most cases because if you are using health in its widest sense it almost invariably has to be so. I think right up until the moment the child is born you are weighing an actual and a potential life.

**Mr. Chatterton:** Even if the foetus has accrued this value where it could live outside the womb?

**Mr. Best:** Exactly. Surely this is a gradation.

**Mr. Chatterton:** You have given me the answer I wanted. In all cases the mother's health is to be given priority over the interest of the foetus, even if that foetus may be viable?

**Mr. Best:** Yes, but I think you then have to get a professional medical opinion as to what you really mean by "health".

**Mr. Chatterton:** Can you define "health", doctor?

**Mr. Best:** I am a lawyer, not a doctor.

**Mr. Chatterton:** Can you refer me to somebody who is able to define "health"?

**Mr. Best:** I think this gets to be a professional medical opinion of the therapeutic abortion committee, and I think Dr. Moore is exactly right. Dr. White is also exactly right when she says "each individual case has to stand on its own facts".

**Dr. White:** May I respond to your question? You are asking a legal question with respect to rights, but I would like to make a response that has to do with the way I see things. As you know, nature aborts about 25 per cent of all fertilized ova, and this is very hard on a woman if she wants to have a baby and she aborts spontaneously. This is a tragic experience. However, it is nothing compared with the loss of a newborn infant. I think you will agree with that.

It is also a great tragedy if a woman advances to the seventh month of pregnancy and suddenly the baby dies. This is harder on her than if the foetus aborts at one month because she has invested feeling and planning and a kind of life expectancy in that child. I think the accruing value has something to do with that.

**Mr. Chatterton:** That is where the term comes from, then.

**Dr. White:** I believe so. I did not create the term but I think this has something to do with it.

**Mr. Chatterton:** The "accruing value" is the value of the foetus to the mother.

**Dr. White:** To the mother.

**Mr. Chatterton:** Not to the foetus in its own right.

**Dr. White:** Exactly. In that case I assume I was answering legally.

**The Chairman:** Mr. Forrestall, you are next.

**Mr. Forrestall:** I think perhaps I am late in my questioning, but I am rather concerned about the analogy that you just drew. For example, war is much removed from us sitting here today, and because it is we are less concerned, but the war is not less real. At least, in my mind you cannot legislate for

each individual woman's particular feelings about the foetus that she is carrying. I am not speaking on the order—although I am a Roman Catholic and the implication is that all our thinking is based on some weird notion—but rather on scientific evidence that has either come before this Committee or that we have been able to dredge out. I am very seriously concerned that the Committee does not make a decision which is based on that type of analogy. How can you deal with the individual? How do you suggest we relate ourselves to value? Indeed, it is very real and I accept your premise.

**Dr. White:** I do not think we can legislate for the individual. We can only set up a means whereby we can deal with the individual.

**Mr. Forrestall:** Thank you, Mr. Chairman.

**The Chairman:** Mr. MacDonald?

**Mr. MacDonald (Prince):** I would like to go back to something Dr. White said a few moments ago when she was dealing with the possibility of an abortion. She suggested that you would take into account some socio-economic factors. Perhaps you are aware that this was included in the bill passed in Great Britain recently. I am wondering if there is a change of emphasis in your testimony here as compared with what you say in your brief. Are you giving a greater interpretation to mental health than I would regard as being the normal interpretation when you simply talk about the dangers of the woman having a complete breakdown which might never be reversed, or certain emotional problems that would create real difficulty, but not taking into account the woman's problem in terms of her standard of living or other factors that will be considered under the general heading of socio-economic?

**Dr. White:** I think the brief should stand as it is. I was stating my point of view and, of course, the point of view of many others. It is the woman who, with the help of the male, propagates the human race. She bears the child inside her. She has literally hundreds of thousands of eggs in her ovaries and about 400 of these come to fruition and can be fertilized during her child-bearing lifetime. I feel that she should have some choice as to which one will become fertilized and grow inside her and become a baby that she will look after, and hopefully with her husband.

A pregnancy may be initiated at the wrong time, and I mean wrong in a great many ways. It may be wrong in terms of a married woman who is perhaps in her forties and already has four children and she does not feel that she could cope with an infant any more, and this is pretty realistic. It may be wrong in terms of a teenage girl of 15 who is in no way capable of dealing with parenthood. It may be wrong in terms of an 18 year-old girl who is just finishing Grade XIII and is in love with her 18 year-old boyfriend. They have acted out their love and they may even want to get married some day, but they are not ready for the experience of parenthood. Perhaps the girl knew nothing about contraception; perhaps these youngsters are innocent enough that they do not want to think about it in that way, and this is what happens. I feel it is the more promiscuous ones who tend to protect themselves. The less informed, the ones who do not take this kind of precaution and the impulsive ones get caught, shall we say. I think if there could be an attitude which would allow a girl to go to her parents—although often they are the last people she wants to go to—or to her family doctor or a doctor in a clinic, that she might have the opportunity to work through her feelings about either having the baby now or not having it. I think this has to be dealt with on an individual basis, although I am saying that I think there should be an extended choice in the matter. She should have made the choice beforehand not to have sexual intercourse, or to have availed herself of protection, and she now needs more choice. She needs to learn something from this as well. She needs an opportunity to deal with all that has happened to her as a result of this kind of behaviour.

I do not know if that is a proper answer, but it is my response to that kind of a question.

**Mr. Knowles:** Would your definition of "health" be similar to that which the Anglican Church gave us when they were here? I am trying to promote an ecumenical movement. The Anglican brief and the Anglican delegation stressed the word "health" down the line and said that the decision should be made on the basis of the woman's total health, although it could include socio-economic conditions, the number of children in the family, and so on. I think they made their point very well when they said that in one instance a fourth child might be too much and in another instance a sixth or seventh child might not

be too much, and that economic conditions, wages, housing, and so on, would vary. I think it is fair to the Anglicans to say that they felt the decision should be made by the medical people, but on the basis of total health. Is the United Church prepared to accept the Anglican definition of "health"?

**Dr. White:** I would.

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, may I interrupt to add something? I am not objecting to the Anglican definition of "health" per se, but Dr. Isabelle was good enough to procure for me the World Health Organization definition of "health". I wonder if it would help if I were to put this before the Committee and we can find out how they feel about it. This is the World Health Organization definition:

"Health" is a state of complete physical, mental, emotional and social well-being and not merely the absence of disease and physical well-being.

I have forgotten how that fits in with the Anglican definition, but would that be acceptable?

**Rev. W. Clarke MacDonald:** I would go along with both the Anglicans and the World Health Organization.

**Mr. Chatterton:** I guess on that definition we are all sick.

**Mr. Best:** You have to look at the total person, and if a poor mother who has several children does not want to have another child, she is driven by social conditions and by poverty and possibly by physical or mental health to seek an abortion. She is determined to get an abortion. I would hope that we could keep her away from a "quack" abortionist, and that the law would be such that she could talk it over with her doctor with the hope of going to a therapeutic abortion committee. If the Therapeutic Abortion Committee does not grant her permission to have an abortion she should be afforded adequate counselling services and legal and financial aid to have her child.

**Mr. Chatterton:** Could I ask a supplementary? You suggest, then, that your proposal will stop these illegal abortions?

**Rev. J. R. Hord:** No, it will not stop all of them, but it will stop some of them.

**Mr. Chatterton:** Do you think it will even reduce them?

**Rev. J. R. Hord:** I think the only way you could stop illegal abortions would be to have the law fairly wide open. For example, in Japan they have illegal abortions—that is, abortions outside the law—but they claim they have practically no "quack" abortions. In other words, practically all abortions in Japan are performed by duly qualified doctors and practitioners. But we are not prepared yet to go wide open that way.

**Mr. Chatterton:** You think your proposal will diminish the number of non-therapeutic abortions?

**Rev. J. R. Hord:** We believe so.

**Mr. Chatterton:** What grounds do you have for that?

**Mr. MacDonald (Prince):** Mr. Chairman, I do not want to break in here but it seems to me we have had a round of supplementaries. I still have a number of questions to ask.

I would like to follow along on this question of mental health and ask Dr. White whether or not the majority of the abortions of which she is aware, or of those she may have recommended, were basically for married or single women? In other words, were the psychiatric indications such that there was a majority of married or single women involved? Is that a difficult matter to determine?

**Dr. White:** I am speaking from personal experience. I work with students and my experience with therapeutic abortion recommendations has been entirely with single girls.

**Mr. MacDonald (Prince):** Perhaps I could direct this question to Dr. Moore.

**Dr. White:** I think perhaps Dr. Moore would have more information.

**Mr. MacDonald (Prince):** Yes, she might be able to provide a better cross-section of this situation.

**Rev. J. R. Hord:** I understand more married women seek abortions than unmarried women, but the figures are hard to get in Canada. Because it is illegal, there are no figures. This is very unsatisfactory. How can we deal with this problem unless we have reasonable laws so that people will come to doctors and report? Only under these conditions can we decide on this in an intelligent way.

**Mr. MacDonald (Prince):** I was wondering from Dr. Moore's experience in a hospital whether or not she could tell the Committee if the majority of women seeking or having abortions for psychiatric indications in the main would be married or single?

**Dr. Marjorie Moore (Obstetrician, Out-Patients' Staff, Women's College Hospital, Toronto):** Before there was good, reliable contraception the vast majority were married women with too many children. In my own practice, I still see some married women with unwanted pregnancies, but at present there tends to be much more prevention, although we still need much more. Therefore, the shift now is to the immature, irresponsible girl who did not consider the possibility of a pregnancy and is in no way thinking about the welfare of the child.

**Mr. MacDonald (Prince):** Therefore we are faced with a somewhat different situation because of the wider use of contraceptives?

**Dr. Moore:** By married women, yes.

**Mr. MacDonald (Prince):** Perhaps we have cause to be more concerned with the kind of situation Dr. White referred to earlier?

**Dr. Moore:** I think the problem needs to be brought out into the open so that, as I said before, more prevention can be used. The married woman who would be a candidate is adequately counselled before she gets to that state. The problem is improving.

**Mr. MacDonald (Prince):** I wonder if I could ask Dr. White whether there has been a great deal of follow-up with patients who have had abortions to determine whether there were any psychological effects resulting from their having had abortions? I mean effects that would contribute to poor health. There has been some suggestion made that this is the other side of the coin. There has been a lot of discussion before the Committee about the use of abortion to protect the mental health of the mother, but little discussion about the effect of the abortion, after the fact, and whether or not this might not be considered.

**Dr. White:** We follow up those people whom we recommend for therapeutic abortion and we do an intensive psycho-therapeutic job with them. However, I would say that I see far more girls who come to me after having had an illegal abortion and who are then in deep depression. My experience has been that it takes longer to work with them as the

depression tends to be deeper, but again so much is related to the previous personalities of these girls in terms of maturity and neurotic make-up.

**Mr. MacDonald (Prince):** I was going to raise that point. I intended to ask if you had seen some of the results of illegal abortions in order to ascertain whether there was a higher percentage of people who were affected but, as you say, these are people who perhaps would have had some emotional or mental difficulties in any case.

**Dr. White:** This is so in both camps. I have just completed two years of therapy with a girl who became pregnant and whose friends prevailed upon her and raised the money for her to go to Japan. Her family knew nothing about it. A week and \$1,500 later she was back and it has taken two years for her to work through the consequences of this illegal abortion. Of course, many other things entered into it. She now feels if there had not been this pressure to get out and get it done, and so on, on the part of her friends, and if she had been able to go to her doctor, she is not sure that she would have gone through with this abortion. She feels it might have been better for her not to have gone through with it. This is the sort of thing I hope will happen more and more. I hope that with the opportunity to go to a doctor and to talk about it with him or her that they would have a chance to work through their feelings, to look at all the various possibilities, have their own strength assessed and to weigh the pros and cons of having an abortion or going through with the pregnancy.

**Mr. MacDonald (Prince):** I wonder, though, whether this is entirely realistic. We know that most of the effective counsellors, particularly the psychiatrists and psychologists who are working today, are overworked as it is, and is it realistic to talk about the kind of doctor-patient relationship which you have described? In many cases I get the impression that doctors, because they are so busy, might take the path of least resistance. For instance, if a patient came in who seemed to be upset and asked for an abortion, it would be a lot easier—because other professional counsellors perhaps would be too busy—simply to recommend the abortion and let it go through. In cases such as this there would not be the kind of intensive relationship you have been describing, Dr. White.

**Dr. Moore:** No, it could not happen in this way. Each case has to go before a committee, which is very, very stringent. Before she goes to the committee the girl is seen by one or two psychiatrists, she has psychological testing, which takes at least a day, and there is a tremendous amount of investigation and labour which goes into each single committee meeting. One is more inclined to turn a girl down—because you know she will be refused by the committee—than to start the ball rolling in her favour and send her off to the abortionist.

There is another point in that they all do not need to see psychiatrists. There are other counsellors in our society who are very helpful. Some girls might need a more supportive kind of relationship than the deep type of therapy I have discussed in this particular case. I think social workers and ministers who are trained in this area could work as teams; we just need more of them. I know it is unrealistic to say they all should get psychiatric help because this is just impossible.

**Rev. J. R. Hord:** Mr. Chairman, have copies of this booklet "Mothers' Aid in Denmark" been made available to members of the Committee?

**The Chairman:** I do not think so, although it has been mentioned.

**Rev. J. R. Hord:** This is a description of a great humanitarian institution in Denmark. All mothers seeking advice with regard to abortion must apply to these Mothers' Aid Centres. Only a portion of them are granted permission—about 50 per cent—to have an abortion, but the others are provided with homes, if necessary, legal aid with regard to patrimony if the girl is unmarried, and so on, as well as social workers and psychiatrists. I would heartily recommend that we in Canada look at this great institution of Mothers' Aid in Denmark.

**The Chairman:** Yes, it was brought up during one of our presentations. Portions of it are in our minutes, although the booklet in that form has not been included.

**Mr. Chatterton:** Could I ask that copies be supplied to members?

**Rev. J. R. Hord:** I could leave this one with you.

**The Chairman:** We will look into it. As I said a lot of this has been presented to the Committee before but not in this form.

**Mr. MacDonald (Prince):** I wonder if I could ask Rev. MacDonald a question. At page 4 of the brief you emphasize that something will have to be done about illegal abortions and this is one area, perhaps, to which we have not given as much attention as we should. I think this is exceedingly important because, even if we change the law to a considerable extent, it has been estimated by those who have studied the changes made in other countries that there will continue to be a considerably high number of illegal abortions performed, particularly for people who might have the right to have an abortion but who want to keep the thing as quiet as possible, and therefore they would have recourse to some kind of a secret abortion.

You suggest an educational campaign, but in terms of our responsibilities perhaps the most important is your third suggestion:

(c) establishment of tax supported family planning and birth control clinics.

Would you like to add to or expand on that suggestion a bit? How much actual thought have you given to that particular suggestion?

**Rev. W. Clarke MacDonald:** I do not know if I dare mention this but the United Church is also on record as supporting the Hall Commission, which dealt with medicare. From this we imply that we are concerned about the very thing you brought up a moment ago, the dearth of practitioners—in psychiatry, in the general practice of medicine and in Dr. Moore's field, and so forth—all of which is dealt with in this way.

I think our present emphasis should be on section (b), because we are quite aware there is no point in passing a law and then expecting that next Tuesday everything is going to be hunky-dory. We know very well it is going to take a long time to wipe out the unsavory aspect, the back-door business, the hush-hush bit that is going on, and all this sort of thing, not only with regard to sex but particularly with regard to this matter. It is going to take a long time to change the public's attitude with regard to this and especially that total sense of guilt of the young people in this connection. It will require a sustained intensive educational program.

**Mr. MacDonald (Prince):** I was interested in this because I would like to know what priorities the United Church is putting on this program. What kind of training are you urging upon, say, the seminaries of the United

Church? Is there any particular program being carried out by any of the various departments of the church that would encourage ministers or laymen to take some action in connection with their local congregations to assist in these matters?

**Rev. W. Clarke MacDonald:** We have one congregation of which I am aware that set up a birth control information clinic on its premises—contrary to the law, of course. Also, some ministers in the course of their counselling to young married couples pass out pamphlets and brochures on these aspects of the subject, again, I must say, contrary to the law. Is that not right, Mr. Best?

**Mr. Best:** Yes, I think it is, Mr. Chairman. I think this is a very important matter. I believe one of the real reasons there are so many illegal abortions now is simply because the medical profession are scared to death to do anything. The law at present is so harsh and the way the courts interpret Section 237 is so harsh that most sensible medical people will not even talk about an abortion, let alone do anything about it.

**Mr. Brand:** If I could interject, could you tell us when there was an interpretation by the courts on Section 237?

**Mr. Best:** If I may read from Crankshaw, Mr. Chairman, I brought it along. Section 237, if you remember, is the procuring section and the note in Crankshaw states:

Abortion. The administration of a drug or other noxious thing, the use of an instrument, or manipulation of any kind with intent to procure the miscarriage of a female person (whether or not she is pregnant) is illegal under S. 237(1).

**Mr. Brand:** Does that relate to a doctor?

**Mr. Best:** Yes; it does not matter.

**Mr. Brand:** We had evidence from the Canadian Bar Association that they could not find any cases in Canada except one which, I believe, was thrown out.

**Mrs. MacInnis (Vancouver-Kingsway):** What about Dr. McCallum?

**Mr. Brand:** I believe that was a therapeutic abortion.

**Mr. Best:** If I may, Mr. Chairman, I will just finish reading this paragraph. I think it is important. There are several citations, some

of which are Canadian cases. Now it may be that they are old, but the fact is this:

The crime aimed at is the "attempt to procure a miscarriage" and the offence is complete when anyone with intent to procure the miscarriage of a woman uses on her any of the means defined by S. 237(3)

The latter, of course, includes drugs. There is a reference that even the most mild purgatives subscribed by a physician could, under that section, technically be termed "attempting to procure an abortion".

There are many cases cited. The latest one mentioned here is *R. v. Doucett* (1949), 7 Canadian Criminal Reports at page 117. That is a western case. It is also reported in 1 Western Weekly Reports. It is a 1949 case.

There are also a number of English cases cited.

I suggest that the fear of the medical profession of giving any advice to procure an abortion is a very real reason for there being so many illegal abortions.

To answer my friend's question, we feel very definitely that there would be a significant decline in illegal abortions if the law were changed as is suggested.

**The Chairman:** Do you have a question, Mr. MacDonald?

**Mr. MacDonald (Prince):** No. I think I will pass and allow some of the other members to proceed.

**Mrs. Rideout:** Mr. MacDonald's questioning was somewhat along the line that I wanted to take. I will take my turn by asking a small supplementary.

You have suggested an educational campaign, Mr. MacDonald. Has your church taken any stand or made any recommendation on sex education in schools?

**Rev. W. Clarke MacDonald:** Actually, we have. I cannot pinpoint it now, with chapter and verse.

**Mrs. Rideout:** I was hoping it might have been included as a recommendation, too. Probably this is where we should start if we are going to start from the beginning.

**Rev. W. Clarke MacDonald:** From the voluntary point of view we have a very fine family life program in Calgary. This is the group that prepared a large section of our brief on marriage breakdown. This is the

kind of program where church, school, community, lawyers, doctors, clergymen and social workers all work together on family life and sex education and on problems such as marriage breakdown, divorce, and so on.

**Mrs. Rideout:** What is your opinion, Dr. White?

**Dr. White:** I was just going to respond to that by saying that children's readiness for sex education varies so much that I wish that something could be done through the schools or the churches to give some sex education to parents—something to help them to know how to deal with readiness in children when they recognize it. At night, when the child is worried about something, the parents should know how to deal with questions and feelings in the frontiers that come up. Most of them are really afraid, and do not know how to cope, or do not know the language, and so on—they do not even know enough about themselves.

**Mrs. Rideout:** You made one pertinent point previously when you said that by and large most young people are hesitant to go to their parents with their problems.

**Dr. White:** Yes. **Mrs. Rideout:** If parents were even helped to learn the language so as to be able to talk to their children in this way, they could start when the children were very small. That is when children start asking their questions. If the parents can respond with an open attitude then they will be able to do so when the children are in their teens, too.

**The Chairman:** Dr. Brand?

**Mr. Brand:** I am fascinated by this idea of the accruing value of the foetus. It struck me, relating it to life in the present economic situation in Canada, that what you are really suggesting is a foetal savings account with an escalating interest rate.

You have been most helpful so far, but I would like to get clear in my mind just what you are suggesting. There seem to have been some additions to the brief.

You believe that each case should be judged individually. You said that, Mr. Hord. Do you believe that the grounds for a therapeutic abortion should be wide enough to allow exercise of this opinion about individuality by a competent authority, as outlined in your brief, regardless of the grounds? I am speaking to the whole committee.

**Rev. W. Clarke MacDonald:** Would you elaborate on what you mean by "regardless of the grounds".

**Mr. Brand:** That is exactly what I mean. Do you think it should be an individual matter which should be left to the authorities in the therapeutic abortion committee, however constituted—and you have suggested specifically how that should be done? Should it be left to them to decide whether the grounds should be socio-economic, or medical, or psychiatric and so on?

**Rev. W. Clarke MacDonald:** Dr. White made it plain that her reference to socio-economic was her personal opinion. Is that not so, Dr. White?

**Dr. White:** Yes.

**Rev. W. Clarke MacDonald:** We said that individually we do feel that this comes into the total picture. Surely socio-economic conditions do affect the mental health of the patient; whether it is housing, or something else, it affects the . . .

**Mr. Brand:** In fact, you do agree, then, that it should be on total health grounds.

**Rev. W. Clarke MacDonald:** I beg your pardon?

**Mr. Brand:** It should be on total health grounds using "health" as defined by the World Health Organization? Each case should be decided individually on this basis?

**Rev. W. Clarke MacDonald:** Yes.

**Mr. Brand:** That is much wider than your brief would suggest.

I have two further small points. . .

**Mr. Best:** May I interject, Mr. Chairman? Our brief does not define "health". Perhaps that was an error on our part. I cannot say whether it was deliberate or not, but there is no definition of "health" in the brief.

**Mrs. MacInnis** read one definition and **Mr. Knowles** another, to which I think most of us would subscribe.

**Mr. Brand:** I understand that. That is why I wanted to get this. . .

**Mr. Allmand:** On Page 2 of your addendum you exclude socio-economic grounds, but in your verbal submission you now seem to be including them. Even although you have no

definition of "health" you have excluded socio-economic grounds in your written brief. You now seem to be reversing that position.

**Rev. W. Clarke MacDonald:** Which page are you referring to?

**Mr. Allmand:** On page 2, in the third last paragraph, this statement appears:

Whereas the United Church of Canada is not prepared at this time to consider socio-economic grounds for abortion...

and so on.

**Rev. W. Clarke MacDonald:** I think the wording should be that the United Church "has not", rather than "is not prepared to". Would that not be correct, Dr. Hord?

This addendum is also a personal submission by Dr. Hord.

**Mr. Allmand:** I see.

**Mr. MacDonald (Prince):** On this the committee seems to be in advance of Dr. Hord rather than behind him.

**Rev. J. R. Hord:** May I say, first, that in the study of this matter I have become more liberal as the months have gone by.

**Mr. Brand:** May I ask Dr. Moore whether, in her opinion, there are valid medical grounds—using that phrase in its wide sense—for therapeutic abortion at this time?

**Dr. Moore:** We do use medical grounds for therapeutic abortion. It is being done. This is one reason that doctors are anxious to have the law written in such way that what is being done now shall be stated to be absolutely legal.

**Mr. Brand:** Can you give the Committee an example of some of the medical grounds which might be considered valid for the granting of a therapeutic abortion?

**Dr. Moore:** One was the woman who stated that she was incapable of coping with a third child. She had had two, and was just able to cope with...

**Mr. Brand:** That is psychiatric. I was thinking of medical rather than psychiatric grounds. You separate those two in your brief.

**Dr. Moore:** I can tell you of one woman, with genuine grounds who aborted spontaneously. This probably pleased the committee.

She had severe kidney disease, and before the committee could meet she aborted spontaneously. She really was completely unfit to have a pregnancy, and had she not done so spontaneously she would have been aborted.

**Mr. Brand:** The Committee has heard a great deal of evidence that medicine is so advanced that medical grounds are becoming almost non-grounds. Is this correct?

**Dr. Moore:** I think in that regard they are snowballing.

**Mr. Brand:** On page 2 of your brief you refer to the therapeutic abortion committee, and you say:

... the majority of this Committee should be practising physicians, with other members drawn from the ranks of the legal profession, social work, psychiatry and clergy.

I am interested in the thoughts behind this. Why you did not feel that what is suggested in, say, the omnibus bill was sufficient, namely, that it should be composed of members of the medical profession appointed by the board of a duly accredited hospital?

**Rev. W. Clarke MacDonald:** Part of the reason for that is that in certain areas it would be difficult to get a committee of more than one if you confine it to the medical profession. This was a consideration, because the church, serving as it does in so many outposts, is quite aware of this difficulty in other connections.

The other aspect is that although we concede the preponderance of wisdom in this area to the medical profession, and that their considerations ought, in the final analysis, to be the more weighty, nevertheless we also suggest that social workers and clergy and also, in certain cases, the legal profession—because of other possible involvements—could lend some real support to such a committee. We are treating the whole person, and although we do not suggest that the medical profession does not take the whole person into consideration, nevertheless this would be added to by the presence of these other persons.

**Mr. Rock:** May I ask a supplementary on that, please?

**Mr. Brand:** Go ahead.

**Mr. Rock:** We agree that the health and life of the mother are involved. Would not considerations of health and life be more appropriate for doctors than for the clergy or for lawyers? Do you not feel that possibly when the patient comes before the committee she could, if she so desired, be accompanied by a lawyer, or a member of the clergy, or a social worker?

**Rev. W. Clarke MacDonald:** It would meet our intention if this were done, yes.

**Mr. Rock:** Rather than having them sit on the board?

**Rev. W. Clarke MacDonald:** My own reaction to that is that I am sure that if their advice was sought when the patient wanted it, or their counsel was allowed to be entered as evidence in the case, so to speak, this would cover our point.

We have no jealous grounds for this kind of statement. It is just that we want to see the patient treated as a whole person, with all the factors contributing to the traumatic experience through which the patient is going being considered.

**Dr. Hord,** would you pick this up here?

**Rev. J. R. Hord:** Perhaps Dr. Moore would like to discuss this from the medical viewpoint. Is there a place for a psychiatrist and a social worker on a committee?

**Dr. Moore:** One's experience is really quite limited, because so few cases come before a committee. I can think of some which perhaps, in christian charity, I would have taken to the committee had I thought there was any chance of the permission being granted.

**Rev. J. R. Hord:** Would they have had a better chance had there been a social worker on the therapeutic abortion committee to plead their case?

**Dr. Moore:** I think, perhaps, they might. At the moment everything is very stringent.

To revert to the question about medical indications, I have been racking my brain to think of others that I have had in my practice. One was a woman with stage 1 carcinoma of the cervix. She was 14 weeks pregnant. The whole uterus was removed.

I was astounded, when I went before the committee, that the pros and cons of doing this were discussed for a solid hour. This being the best medical treatment one would

have thought that this would have been passed very quickly. There is a great deal of soul-searching on each one of these cases.

**Mr. Chatterton:** Perhaps I could ask a supplementary? Does the reluctance of these abortion committees stem from the provisions of the Criminal Code? Is that why they are so reluctant? In other words, it is your opinion that if the Criminal Code is merely clarified as is proposed in Bill No. C-95, then these abortion committees will...

**Dr. Moore:** I do not think it would make any difference in my own hospital. Knowing the committee and those who sit on it, as I do, I do not believe there would be any more talk.

In some hospitals I know, even in Toronto, where they tend to have more psychiatric problems, there is a direct sort of funnelling of cases from one psychiatric hospital to one committee which is more used to coping with these problems. It might lead to a more lenient attitude there, but I certainly do not think the number of therapeutic abortions is going to multiply. The whole problem is going to be brought out in the open, with more counselling and discussion, and more education to prevent the cases ever coming before it.

**Mr. Chatterton:** It was not the mere clarification of the Criminal Code, as now proposed in Bill C195, that caused the change in attitude...

**Dr. Moore:** Not in the centre where I work.

**Mr. Rock:** Perhaps I could interject here. You said that you would prefer to have a social worker on the board. I do not feel that the board should present the case for the patient. The patient is supposed to present a case to the board. Therefore, the social worker should be with the patient who comes before the board to prove her case. If she requires legal counsel she should bring her lawyer, and have a social worker with her before the board. The board is going to make the decision. It cannot also be the prosecutor, or the legal adviser of the patient, or the social worker.

**Dr. Moore:** At the moment the patient does not go near the committee. The patient's doctor presents the case. What often happens is that the doctor is treated as a willing abortionist. This is not a nice attitude. One is

there to help the patient, yet one is considered as a person who is proposing to do something which is illegal.

**Mr. Rock:** Mind you, I should also say that the patient's doctor should go.

**Dr. Moore:** At the moment it is the patient's doctor who goes, and any other doctors who are concerned. In a medical case it is the chief physician. It is always done by the chiefs of service. It is the chief psychiatrist if it is a psychiatric problem.

**Mr. Rock:** The fact that there are so many religions worries me most in this matter of choosing a board. Let us suppose that a certain hospital does not choose to take a Roman Catholic minister on the board, or an Anglican or a United Churchman. This will cause some religious conflict. Because it involves health and life and is medical more than anything else, there are three physicians who will decide; the others merely help the patient. I would like your comments on this.

**Rev. J. R. Hord:** I would like to have the support of Mr. Best on this but I suggest that as lawyers and ministers we would not push our case beyond the board.

**Mr. Best:** I would say that. The only circumstance I can envisage in which it would be really useful to have a lawyer on the board would be if the medical members on it were legally concerned about a borderline case, even under Bill C-195, and wished to have a legal opinion. It would be helpful to have a lawyer on the board with them in that case, but I think it would be a very unusual situation.

**Mr. Chatterton:** Would a legal opinion be important where health is affected?

**Mr. Best:** No; but he could act as a weathervane on the case, on the assumption that there was a likelihood of a charge even under the amended act.

**Rev. J. R. Hord:** Rape or incest might enter into this.

**Mr. Isabelle:** Mr. Chairman, perhaps I could answer . . .

**The Chairman:** Unfortunately, there have been so many supplementaries that we are losing track, and there are hundreds who have been waiting for a long time. . .

**Mr. Isabelle:** I will wait until Dr. Brand, if you wish.

**Mr. Knowles:** Perhaps Dr. Brand would like to ask a supplementary.

**The Chairman:** It is his turn.

**Mr. Chatterton:** I have not finished.

**Mr. Brand:** I have a question on a statement appearing on page 2:

the operation to be performed by a qualified doctor, in hospital, except in case of extreme emergency.

Would you explain that?

**Rev. W. Clarke MacDonald:** Explain "extreme emergency"?

**Mr. Brand:** Do you mean by that that there are times when it could be other than a doctor, as the present Criminal Code indicates, or perhaps not in hospital?

**Rev. W. Clarke MacDonald:** The "except" refers to the hospital.

**Mr. Brand:** Do you mean, in addition, some time when it will be done other than in a hospital? Are you sure that you really mean that?

**Rev. W. Clarke MacDonald:** I was present when the Sub-Executive of the General Council considered this, and this is what they meant.

Dr. Moore and Dr. White were not at that meeting, but from consultation with them I will say for the record that if I were on the Sub-Executive of the General Council, which speaks with the authority of this brief—and they alone do—I would present to them the considerations that the doctors have given us on this matter. They are probably the same reservations that you have.

What was in our minds at that time was, for example, that in some northern parts of the Prairie provinces, or in the Cape Breton highlands, there is a doctor, but probably no hospital, and at this time of year—this is the sort of thing we had in mind.

**Mr. Brand:** Do you have any evidence of cases of therapeutic abortion having come up in such circumstances?

**Rev. W. Clarke MacDonald:** No.

**Mr. Brand:** Does anybody?

**Rev. W. Clarke MacDonald:** No; this has not happened.

**Mr. Brand:** Exactly. On page 4, you talk about an educational campaign. Did any of you see "The Way It Is" program which showed the film on abortion? It received a great deal of criticism from many people who said that it should not have been shown on Canadian television because it was such a terrible film. Do you think this is a subject which should be shown as it was on "The Way it Is"?

**Rev. W. Clarke MacDonald:** I did not see the film.

**Dr. Moore:** I was at a preliminary showing of the National Film Board . . .

**Mr. Brand:** Yes; the Committee has also seen the film. I was wondering about the public.

**Dr. Moore:** We were asked our opinion on where the film should be used. We all said that it certainly not be used on television.

**Mr. Brand:** Why not?

**Dr. Moore:** We felt it was sensationalism and had nothing to contribute. At the end of the filming most of those at the viewing said they certainly thought the law should be changed, apart from the other obstetrician and myself, who felt that something certainly needed to be done about that young man. Those are two different views.

**Mr. Brand:** Did you think the film was a good one, or a valid one, medically speaking?

**Dr. Moore:** Very; last week I quizzed a girl who had just come from having an abortion. Her story was almost identical.

**Mr. Brand:** If that is the case, and it is a valid representation, what objection would you have to its being presented to groups, or even on television, as a means of education?

**Dr. Moore:** I do not think we are ready for it. I was not ready for it. I do not know whether the public is.

**Mr. Brand:** Do you think we are ready for the legalization of therapeutic abortion?

**An hon. Member:** No.

**Dr. Moore:** I think we are ready for the law to be stated so that we can carry on legally what is being done.

**Mr. Brand:** At the bottom of page 6 you make the statement:

the increased ability of medical science to diagnose maternal illnesses and detect retardation or deformity in children prior to birth;

You have taken all these things into account, but you really have not anywhere in the brief suggested liberalization of the grounds here there is serious risk of deformity to the baby. As a United Church group, do you consider this a valid ground? Did they discuss this?

**Rev. J. R. Hord:** This is dealt with more at the top of page 3, I would say, Dr. Brand. Only rape and incest are mentioned here, but the matter of deformed children was also mentioned. We felt that the law should not be too specific; that the therapeutic abortion committee should be given some freedom, or some leeway, to decide again in every situation.

**Mr. Brand:** I believe you are underlining the proposition I put to you at the beginning of my questioning, that regardless of the grounds you give this as authority to the committee.

I have just one further question on page 2 of the statement on abortion. I will address you, Mr. Hord, since this is your personal contribution to the Committee. Starting at the top you say:

One delegation charged that aborted babies in Japan cried.

You then go on to disprove this theory by using figures taken from *Therapeutic Abortion and The Law in Sweden*. I am rather curious about this. Why not from Japan?

**Rev. J. R. Hord:** Certainly the headline "Aborted Babies Cry!" implied that in Japan many abortions were performed in the later months. We state in this graph that 94.3 per cent of induced abortions were performed—no, this is in Japan. I am sorry about that reference. This graph is from Japan. I will have to correct that book reference. This is *Japan's Experience In Family Planning—Past and Present*, which has a good section on abortion. I again would like to refer it to the Committee.

**Mr. Brand:** Dr. Moore, I believe you have already stated, that the normal, medically-accepted limit for abortion would be 20 weeks. Is that correct?

**Dr. Moore:** Definitely, yes.

**Mr. Brand:** Therefore, a lot of this graph is not valid, is it?

**Dr. Moore:** No.

**Mr. Brand:** In your experience, are you familiar with any cases of abortion under 20 weeks where the baby actually cried?

Dr. de Veber, who was before the Committee previously, sent to this Committee a letter containing strong evidence that aborted babies did indeed cry. I believe you have a copy of that letter. Mr. Chairman?

**The Chairman:** Did not the originator of that statement go on to say that sometimes there was an indrawing that might be interpreted as a cry?

**Mr. Brand:** Yes; even if the baby was dead. That is correct.

**The Chairman:** Yes.

**Mr. Brand:** I merely wanted to get that on the record, because in the letter Dr. de Veber made some accusations which I thought were most unfounded, and certainly not based on medical testimony. These surprised me, coming as they did from a professor in a Canadian medical school.

Relative to the previous evidence before us by Dr. Walters, for example, and by Dr. de Veber, you say this on page 3:

Another significant fact is that quack abortionists have been almost completely eliminated in Japan.

They were very strong in their testimony and in their belief that liberalizing of abortion laws creates an abortion climate and that this increases the rate of illegal abortions in countries where permissive and other liberalization of the abortion laws has been carried out. Does anybody on the committee agree with that statement?

**Rev. J. R. Hord:** If I may correct your interpretation slightly, I said "quack abortionists". That is, there are illegal abortions in Japan, in that they are beyond the law, but, as I have said, they are performed by qualified doctors.

**Mr. Brand:** Can you give us a statement about illegal abortions, as such? Are they, in your opinion on the increase in those countries where abortion laws have been liberalized, or have they decreased?

**Rev. J. R. Hord:** Again on page 3, I state, in the last paragraph:

Denmark has not been able to do away with illegal abortions. . .

In fact, there are many illegal abortions, but during the past decade, according to this book, they have decreased by from 10 to 14 per cent.

**Dr. Brand:** I merely want to get on the record that this group believes that liberalization will reduce—to whatever extent it may be—the rate of illegal abortion.

**Rev. J. R. Hord:** May I also put on the record that in Japan oral contraceptives have not been legalized.

**Mr. Cowan:** Can they not say "no" in Japan?

**Rev. Hord:** If I may continue, Mr. Cowan, I am of the opinion that if in Japan there was strong education in contraception and the legalization of all contraceptives in Japan the abortion rate would decline. I also point out in this paper that there has been a steady decline in the abortion rate there in recent years, from 1,200,000 induced abortions in 1955 to 825,000 in 1964.

According to my figures, if there are approximately 1,225,000 abortions in Japan, with a population of 100 million, that shows a ratio of about one to 100 citizens. If there are 100,000 abortions in Canada, which I think is a reasonable estimate—although it has been put as high as 200,000 and 300,000—with a population of 20 million that would mean a ratio of one to 200 citizens. Therefore, the rate of abortion in Japan, which is more or less quite wide open, is only twice what it is in Canada, as a rather conservative estimate.

**Mr. Brand:** With a small "c".

**Rev. J. R. Hord:** Pardon my political naïveté.

**Mr. Brand:** Thank you very much. I would like to thank the committee for being so helpful.

**Mrs. MacInnis (Vancouver-Kingsway):** I would like to express my appreciation of this delegation's very practical and non-dogmatic approach to this matter. Also, it has been one of the delegations where we felt that the well-being of the woman was definitely to take precedence over the foetus.

I would first of all like to ask this question. We have seen one side of the coin. Committee members do not believe that broadening

abortion laws to include health would necessarily increase the number of abortions. I would like to know what is on the other side of the coin. Suppose Parliament now refused to broaden the abortion laws and decided to leave them exactly as they have been with just the health of the mother...

**The Chairman:** The life of the mother.

**Mrs. MacInnis (Vancouver-Kingsway):** I am sorry, the life of the mother—in the opinion of the delegation would that result in more illegitimate births in Canada?

**A Witness:** I think one of the doctors should answer this first.

**Dr. White:** There are other factors that come into play as well. There is an increasing use of the contraceptive pill among unmarried girls. Again, doctors go against the law when they give information, or the article, the pill, to these girls. I think this has to be worked out as well. It is very difficult to answer that question knowledgeably because of these other forces which are in effect.

Earlier someone commented on the word "No" as being an oral contraceptive. This is a position that can be taken, and I think people need to be taught to say "No", or to use themselves responsibly in all areas of life. But how do we suddenly tell all parents how to help their children to be responsible, to put off pleasures, especially when lots of parents do not know how to help their children?

**Mrs. MacInnis (Vancouver-Kingsway):** Is it your opinion that at the present time the climate is getting to be more and more loose and permissive, or there is no sign that personal responsibility is being built in, or where are we?

**Dr. White:** There are so many things going on that I think it is very difficult to comment on which force is the strongest. As a health service we are certainly doing our part to educate as well as to take this other kind of approach.

**Mrs. MacInnis (Vancouver-Kingsway):** I think the fear has been expressed quite frequently in this Committee by witnesses that if we broaden the law to include health we will encourage abortions and that we will have vast quantities of abortions in Canada.

**Dr. White:** We presently have vast quantities of them.

**Mrs. MacInnis (Vancouver-Kingsway):** We would then have legal ones as well as illegal ones, and abortion would become a sort of substitute for contraception. Do you think there is such a danger if the laws were broadened to include health and abortions were made legal on a wider scale than they are now? Would that increase the number of abortions that go on in this country?

**Dr. Moore:** I think at first if the word went out and headlines in the paper read, "Laws changed, abortions now legal in Canada", that a rash of patients might turn up in doctors' offices and say, "Okay, I am pregnant. Now, you fix me up. If you will not do it I will go to somebody else". I think this might occur at first but there would still be very conservative committees to get by. The word would soon get around that you still had to go to a back-door man because you could not have it done in a hospital on those grounds. Once that word got around the underground that works so well for these cases would be back using their methods as seriously as they now do. It would just not pass through the hospitals.

**Rev. W. Clarke MacDonald:** May I also say, reflecting opinions expressed in a discussion prior to this, that there is little likelihood of people saying, "Well, we will not use any contraceptive method because abortions are easily obtainable". I gather from their statements that an abortion is no picnic. They would probably not start doing this willy-nilly.

**Dr. Moore:** Doctors hate doing them, and it is distasteful. I have spoken to my colleagues and they speak of experiencing severe nausea and real disgust. The only reason doctors go through with it is because they are considering the woman on the table. They hate to do it and they might hate it so much that they would advise anyone who might be in such a position to take preventive measures.

**Mrs. MacInnis (Vancouver-Kingsway):** We have had witnesses before this Committee, and I believe they have included medical people, who have assured us that generally if women are refused an abortion they will come to love their babies during the gestation period and this is a very good reason for turning down abortion. They said it is just a natural feminine thing to be upset, so when pregnancy begins abortion ought to be turned down on principle because women will come to love their babies and will hate to think

about having had an abortion afterwards. I would like to get some idea from your experience of how much credence one should put in that?

**Dr. Moore:** I have seen quite a few of these women who have come along threatening suicide who say, "I cannot go through with it." However, they were forced to go through with it and certainly they did come to love the child. But these were women under more economic stress than psychiatric stress. When I see a woman who has a real psychiatric problem I imagine her later on causing these headlines in the paper, "Deranged woman kills her own children." I think she should never have had that last child or she should have been sterilized somewhere along the line. These are the sort of people I am thinking about, not the ones who do not have an extra bedroom or who want one more luxury. We are trying to prevent these terrible tragedies from occurring and to pick out the psychiatric cases and treat them. In order to reach the psychiatric cases you have to have the word "health" in the law.

**Mrs. MacInnis (Vancouver-Kingsway):** I remember years ago that very frequently the idea of marriage used to be put forward as a cure for psychiatric conditions in young girls. I have heard the idea put forward that having a baby is a cure for a psychiatric disorder. What do you think of that, Dr. White?

**Dr. White:** This is a very difficult thing on which to comment. It depends so much on the individual. If you are talking lightly about a person who feels inadequate, she can gain feelings of adequacy and fulfillment, and so on, by having a baby. This is common. I think almost every woman experiences this to some degree, but feelings of inadequacy are really not a psychiatric disorder. They are universal, and this is why I think we have to have the individual approach to help their personal assessment.

There is the case of the woman who is really waiting and planning for her baby, but we have come through decades when there has not been very good contraceptive material available and I think almost every woman I know has had a baby that she has not planned. Her first thought has been, "Oh no, this is a terrible time to have a baby", but she copes and she begins to invest plans in it. If she has a spontaneous abortion she is terribly disappointed, even though her initial reaction may have been that this was dreadful and that she should not have a baby now.

It is not a psychiatric disorder to have an initial idea of rejection of the infant. Lots of people feel guilty afterwards. The feeling of guilt is not a psychiatric disorder.

**Mrs. MacInnis (Vancouver-Kingsway):** What is the value or otherwise of allowing a pregnancy to continue with a very severely disturbed woman?

**Dr. Moore:** So often the solution depends on the total situation, how her husband feels about it, what support he is going to give her, and, in connection with her family, if she has somebody to help out with the physical chores of housework. All this can help an inadequate woman to cope. But if she is completely alone, if she is a new Canadian expecting one more that she cannot cope with, it could push her into a severe psychiatric state.

**Mrs. MacInnis (Vancouver-Kingsway):** What about the effect on the child?

**Dr. Moore:** With an emotionally disturbed mother, you are picking up the pieces from that generation and the next generation.

**Dr. White:** This is something that I do not think we have even talked about today, children who are born and are unwanted or who are put out for adoption. I am sure all of us know children who have a tremendous feeling of rejection which they must cope with, even if they have been adopted into good homes. At the beginning they have something very disturbing with which to cope.

**Mrs. MacInnis (Vancouver-Kingsway):** I wish you would both say a little bit about your experience. I think most people are rather inclined to lightly dismiss the idea that it is a crime to bring an unwanted child into the world. What do you think about that in relation to abortion?

**Dr. White:** I think life is hard enough for people under the best of circumstances and to start with the experience of rejection certainly contributes a good deal to the difficulties one may have. I put this alongside the fact that there should be more choice in terms of which baby you are going to have and when.

**Mrs. MacInnis (Vancouver-Kingsway):** But you regard birth control and contraceptives as the first line of defence?

**Dr. White:** Absolutely, because this is responsible behaviour on the part of the individual.

**Rev. W. Clarke MacDonald:** Mrs. MacInnis, we have no statistics on this whatsoever, and I am simply giving a personal hunch, that possibly there is a relationship between what I think in medical circles is now called the battered baby syndrome and unwanted children, and lack of the opportunity to do the very sort of thing that we are setting forth in our brief. There may be a relationship here but I cannot substantiate that this is so.

**Mrs. MacInnis (Vancouver-Kingsway):** I think I just have one more question. I was wondering about this board on which you were thinking of having other people besides doctors. We had a medical man before us not so very long ago who, under very careful questioning, said that he wanted to keep the law the way it is except to clear up those two sections of the Code to make it legal. He said that as a medical man he would absolutely refuse to interpret the word "health" if it were in there. He said that it could not be interpreted, it was too broad. I wondered if from your experience you felt that medical people might be unwilling to determine the broader context of health in addition to life. Was that part of your reason for wanting to see social workers, psychiatrists, or other people on the board as well as straight medical personnel? Did that enter into your consideration?

**Rev. W. Clarke MacDonald:** This had something to do with it. The fatality of the person was actually our concern, yes.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes.

**Dr. White:** I was not on the committee that suggested that paramedical people be on the committee. However, I see a reason for it because there are some doctors who, in spite of their training, are not very good at eliciting feelings and attitudes from a patient, and so on. Perhaps a social worker on the committee might elicit these feelings if the medical people were saying, "We are not sure if she could handle this, we do not know the background. She is demanding it but we need to have more information about her attitudes." It is the same with a minister who might enquire whether or not she is going to feel guilty afterwards because of her deeply held religious beliefs, and so on. This would be my reason for seeing a need for paramedical people who could help the doctors to know more about attitudes, other than just straight health attitudes.

**Mrs. MacInnis (Vancouver-Kingsway):** I have one more question. We have heard a little bit this morning about the feeling that perhaps some of the witnesses are going a bit beyond the brief, not actually in what they are saying but in their thinking. I have noticed in this brief that the resolution passed in 1960 was more fragmentary and less detailed than the one in 1966. I am wondering if you people have not moved to 1968 in your thinking, and whether the direction of the United Church would be moved along even more in line with your thinking if you had a convention right now? I wonder if that is not the trend?

**Rev. W. Clarke MacDonald:** We dare to hope that in every area the United Church is progressing—with a small "p"!

**Mrs. MacInnis (Vancouver-Kingsway):** Thank you.

**Dr. Moore:** It is the same in the medical literature. I looked to see what there was on therapeutic abortions in past literature and in some of the yearly summaries there was nothing. Gradually one or two articles appeared and then there was a whole section in 1967, so the medical profession is studying the problem.

**Mrs. MacInnis (Vancouver-Kingsway):** The problem is getting more urgent.

**Dr. Moore:** Yes.

**Rev. J. R. Hord:** Mr. Chairman, may I make a fairly strong statement against delegations that have been making rather strong and wild statements, for example, the Committee for the Defence of the Unborn Child. These delegations are usually made up of males. They are usually very dogmatic and they plead great concern for the foetus, but they show little or no compassion for the mother. I think we, in the name of the church, need to take a strong stand against some of our members, and even clergymen, who take this extreme and unfeeling stand toward the mother.

**Mr. Isabelle:** According to your brief, there would be some doctors on these therapeutic abortion committees. Is the patient who is asking for an abortion going to pay their fees, or will it be on a benevolent basis?

**Dr. Moore:** There are a multitude of committees in a hospital, all appointed by a hospital medical advisory committee, which is a

lay and medical group, and this is one of many voluntary committees.

**Mr. Isabelle:** Is that the way they function at the Toronto General Hospital?

**Dr. Moore:** Yes.

**Mr. Isabelle:** The reason for my question is that a survey was made in the United States of therapeutic abortion committees in 65 major United States hospitals and it showed that the ratio of abortions performed on private patients vis-à-vis public patients was four to one, apparently because of the fees. It seems this was the reason for it not working in the United States. Were you aware of that problem?

**Dr. Moore:** Regarding the money angle, it is happening now. Girls who can afford abortions are going to a foreign country, so having money is of value.

During my undergraduate training I knew of one gynaecologist who did not charge any fee for doing such an operation lest he be accused of ulterior motives. Normally the fee is exactly the same as for a dilatation and curettage.

**Mr. Isabelle:** Mr. Best, under our present Code can anyone actually perform a bona fide abortion in Canada today?

**Mr. Best:** Do you mean according to the Code now, sir?

**Mr. Isabelle:** Yes.

**Mr. Best:** It does not say that it must be a physician, does it?

**Mr. Isabelle:** It does not mention it.

**Mr. Best:** No, it does not mention physicians.

**Mr. Isabelle:** So anyone could perform a bona fide abortion.

**The Chairman:** Do you have any questions to ask, Mr. Allmand?

**Mr. Allmand:** The question I was going to ask has been answered. I have a point of order on Dr. Hord's statement that he made just now in respect of the Society for the Protection of the Unborn. All the representations I have received from them are mainly from women. I do not know where he gets the information that they are mainly men.

**Dr. Moore:** Perhaps the reports in the press were from men.

**Mr. Allmand:** Well, that may be, but there are women in this room today who are from that committee. Even if they were dogmatic I think we would have to be fair and admit that there have been very dogmatic statements on both sides as well as reasonable statements and we are trying to sift out the reasonable evidence. I do not think your statement, Dr. Hord, was correct or fair. I do not know where you got the information that there were a majority of men on these committees.

**Rev. J. R. Hord:** It happens that those who made representations to me were males.

**Mr. Howe (Wellington-Huron):** Mr. Chairman, a great many of us have been worried and disturbed about the number of illegal abortions in Canada, and we do not have any particular figures on the number. I was interested in Dr. White's statement concerning the girl who went to Japan and whose friends raised a fund of \$1,500 on her behalf. If this \$1,500 had not been forthcoming would this girl have been able to procure an abortion cheaper in certain areas of Canada?

**Dr. White:** Yes, but I do not know where.

**Mr. Howe (Wellington-Huron):** Have you any idea what the average price is?

**Dr. Moore:** The average is from \$400 to \$1,000. I have been asking patients since I was planning to come.

**Mr. Howe (Wellington-Huron):** Dr. Moore, you made a statement about the underground in this connection. When we think of the underground we think of narcotics, houses of ill repute, betting and so on. Does this type of thing fall in the same category? Do rings operate and is word passed from mouth to mouth?

**Dr. Moore:** Word goes from mouth to mouth. My patients tell me you only have to ask a couple of people and you can find somebody who will do it.

**Mr. Howe (Wellington-Huron):** My concern, if it is so prevalent, is why there are not more people charged and more evidence brought forward on illegal operations. Do you not feel if the law enforcement people took this a little more seriously and followed up their leads that they could gather enough evidence to bring prosecutions against more of these people?

**Mr. Best:** If I may answer that, Mr. Chairman, I think the answer, if I can be categorical, is no. The fact that there are not that many reported cases under the abortion section of the Code does not mean that there have not been a lot of prosecutions.

First of all, there have been very few prosecutions of medical people under the section, as you probably well know, because I think the medical profession have been extremely ethical and have made a real effort to abide by the Code such as it exists. However, the quacks are extremely difficult to ferret out. Although I do not practise in the criminal courts very much anymore these cases are usually held in camera, which means that they are not reported. So the fact that you can find perhaps only 40 or 50 reported abortion cases in Crankshaw does not mean there have not been 2,000 prosecutions for abortions in Canada in the last 10 years. I do not know how many prosecutions there have been but I suppose if somebody wanted to check with the Attorney General's office they could find out.

**Rev. J. R. Hord:** I have some figures here that indicate since 1958 in Toronto, when the abortion squad committee was set up, there has been 400 prosecutions until 1966, with convictions in over 75 per cent of the cases investigated.

**Mr. Best:** If I may say so, Mr. Chairman, the significant part of what Dr. Hord just read is that last sentence, "with convictions in over 75 per cent of the cases". In other words, the police simply have not laid charges where they have had very good grounds for believing that abortion rings did exist because they want to get convictions. If they only lay charges where they think they can get convictions they are going to lay very few charges, and if they have a batting average of 75 per cent they are doing extremely well.

**Mr. Howe (Wellington-Huron):** This brings up a question, Mr. Chairman, that I think we probably should consider in this Committee. Mr. Best mentioned the abortion squad committee in Toronto. They probably have similar committees in other cities, and perhaps we should take evidence from such committees.

**The Chairman:** We have in No. 15 of our *Minutes of Proceedings and Evidence* statements from the chiefs of police in Montreal, Toronto, and Vancouver, as well as statistics

giving the number of prosecutions in Canada. I really do not know what more information we can obtain.

**Mr. Howe (Wellington-Huron):** I remember when they gave evidence with regard to the number of prosecutions they had had, but we in this Committee are thinking of ways and means to try to improve the law so that we will be able to cope with these things. I sometimes feel that people with that type of experience might be able to give us advice on how to strengthen the law in order to deal better with this type of person.

**Mr. Best:** If I may make one short answer to that, Mr. Chairman, we strongly believe that if the law is liberalized, as suggested in the draft section of the Code and as suggested in this brief, there would be in fact a substantial reduction in the number of illegal abortions because people who had a legitimate reason for having an abortion would not be afraid to go to hospital and would not be afraid to present their case to the therapeutic abortion committee.

As it is now, as Dr. Moore I think has already said, so many people assume that they have no chance whatever of getting a legal abortion under the present regime that they do go and seek out an illegal operator.

**The Chairman:** Did you say 400 people were prosecuted?

**Mr. Best:** I believe there were 400 in that six year period. Mr. Chairman, I will read the final paragraph on page 181 under Therapeutic Abortion in the United Church Evangelism and Social Service report of 1966:

In 1958 the abortion squad of the Metro Toronto Police Force was set up and has greatly improved the investigation and prosecution of the criminal abortionist. In over 400 prosecutions there have been successful convictions in over 75 per cent of cases investigated.

I am informed that figure relates to the years 1958 to 1963, so that would be five years.

**The Chairman:** Obviously, if that is going on in Toronto then these cases are not being properly reported because the Dominion Bureau of Statistics reports only 200 people charged for attempted abortion in the whole of Canada during a seven year period, from 1960 to 1966. Your figure for the number of persons charged was 400.

**Mr. Howe (Wellington-Huron):** Mr. Chairman, I have one further question. What sentences were passed in connection with these convictions we are speaking about?

**Mr. Best:** I could not answer that categorically—months to two or three years. As you know, from reading and from hearing other lawyers talk around the courts that the sentences vary anywhere from a minimum of maybe six months to two or three years. As you know, the Code provides for life imprisonment, but I, personally, have not heard of any person going to jail for more than three years for abortion. However, I would not want to be quoted on that because I just do not know.

**The Chairman:** As was mentioned earlier, a jail sentence is not mandatory; convicted persons can be given a suspended sentence and fined in lieu of going to jail.

**Mr. Allmand:** You are referring to the quack abortionists rather than the mothers.

**Mr. Best:** Yes, these would be the quack abortionists, sir.

**Mr. Allmand:** Do you have any knowledge of the sentences given to mothers who have had abortions?

**Mr. Best:** I have not. I do remember hearing about one or two cases where the sentence was very light, either 30 days in a reformatory or even a suspended sentence. As the Chairman says, if it is a first offence the magistrate has the right to invoke just a fine.

**Dr. Moore:** And, furthermore, the doctor loses his licence to practise.

**The Chairman:** Well, he may or he may not. Having been charged with a criminal offence I think it is understood that he usually will, but I think this is at the discretion of the medical association.

**Dr. Moore:** When a patient asks me to refer her to a good doctor who would do a proper abortion on her I say that I do not know of a good one who would risk his licence over one case.

**The Chairman:** Have you any questions, Mr. Cowan?

**Mr. Cowan:** I have only one or two questions. This submission from the United Church starts off "The Sub-Executive of the General Council . . ." How many members are there on the Sub-Executive?

**Rev. W. Clarke MacDonald:** About 20.

**Mr. Cowan:** More or less?

**Rev. W. Clarke MacDonald:** I cannot tell you exactly, sir.

**Mr. Cowan:** How many were at the meeting on December 14, 1967, which is just about two months ago.

**Rev. W. Clarke MacDonald:** I am sorry but I cannot tell you the number that were there. I was present at the meeting and I would estimate that there were about 18 present.

**Mr. Cowan:** The next one starts off "The United Church of Canada", speaking for the whole church. In your personal submission. . .

**Rev. W. Clarke MacDonald:** May I answer that, Mr. Chairman?

**The Chairman:** You may comment on it.

**Rev. W. Clarke MacDonald:** In the structure of the United Church of Canada we have a General Council which meets every second year. During the interim between those meetings there is an Executive, comprised of a large number of members, and they meet on the average of three or four times a year for two and three day periods. Between the sessions of the Executive the Sub-Executive transacts the business in the name of the General Council of the Church. Now the Sub-Executive would not undertake the presentation of a brief to a responsible commission of the nation, such as this is, unless they had, in essence, the backing of the General Council of the Church. As the appendices to this report indicate, practically everything in principle that is included in the brief has already been considered and authorized by the General Council of the United Church, which is composed of representatives from coast to coast numbering around 269. They are elected to that court the same as some of you are elected here to represent areas of the nation in politics.

**Mr. Cowan:** I did not ask that question, but that is a nice answer.

**Rev. J. R. Hord:** That statement of the General Council is on page 7 and 8.

**Mr. Cowan:** I happen to be a graduate of Victoria College and I am quite aware of your set-up. I know quite a few members of your General Council and I speak to them on a first name basis. On page 2 of the personal

submission by Rev. J. R. Hord, down towards the bottom, there is this quotation:

"As soon as a country reaches a certain level of culture, some of the pregnancies among its population will be deliberately prevented from reaching term, regardless of the law in the country.

What is this from? I was trying to find the source. There are quotation marks around that paragraph.

**Rev. J. R. Hord:** This is page 3, Therapeutic Abortion and The Law In Sweden, The Swedish Institute. I could pass that over to the Committee if you wish.

**Mr. Cowan:** Page 3 of the brief? There is only the one way up here at the top, above the chart.

**Rev. J. R. Hord:** Yes, that is from another book, Japan's Experience In Family Planning.

**Mr. Cowan:** This one that I just asked you about is from where?

**Rev. J. R. Hord:** That is the reference at the bottom of the page.

**Mr. Cowan:** This says as soon as a country reaches a certain level of culture. What happens when a country reaches a certain level of bi-culturalism?

**Mr. MacDonald (Prince):** On a point of order, Mr. Chairman.

**Mr. Cowan:** I have no more questions.

**Mr. MacDonald (Prince):** I move that we adjourn.

**Mr. Allmand:** Dr. Moore, in answer to a previous question you said that even if the Omnibus Criminal Code Bill was passed with the new provisions on abortion that the therapeutic abortion committees at hospitals would give decisions somewhat similar to those they now give.

**Dr. Moore:** In the set-up where I work, yes, but in others it would allow them to be more lenient, if they are a lenient committee. It depends on the committee.

**Mr. Allmand:** You know that the omnibus Criminal Code Bill includes the general term "health". As a matter of fact, it is very similar to your own recommendation.

**Dr. Moore:** Yes. It has to be health and it has to be one other in that bill.

**Mr. Allmand:** But the omnibus Criminal Code Bill does have "health"; I cannot see how a committee in a hospital could make the same decisions it makes now when it considers only life, and "life" is very ambiguous in the law.

**Dr. Moore:** We have been acting under "health".

**Mr. Allmand:** Oh, you have been acting under "health" even though it has not been legalized?

**Dr. Moore:** Yes.

**The Chairman:** The doctors themselves have admitted that they are breaking the law every day.

**Mr. Allmand:** I see. So, you feel even if it is clear in the law that an abortion for purposes of health is admissible, that this particular therapeutic abortion board would still act in the way it does now?

**Dr. Moore:** That is my opinion.

**Mr. Knowles:** But you would probably get more cases.

**Dr. Moore:** Unless you think a case is going to be passed you do not take it. For instance, I would not take an ordinary socio-economic problem. I would not bother, because it takes a long time and it is useless.

**Mr. Allmand:** May I ask how that board would be appointed now? Is it appointed by the board of directors of the hospital?

**Dr. Moore:** Yes.

**Mr. Allmand:** I see. Is it a public hospital?

**Dr. Moore:** Yes.

**Mr. Allmand:** Thank you.

**The Chairman:** Are there any other questions? If not, we would like to thank the United Church for coming and making a very frank and forthright presentation on our subject matter. We appreciate your attendance and your answering the inquiries of the Committee.

**Rev. W. Clarke MacDonald:** Dr. Harley, on behalf of the sub-executive of the United Church and the committee which is present, may I thank you and the members of the Committee for their questions to us, their insights into the problem, their deep concern

as expressed in their questions and you, sir, for your gracious chairmanship.

**The Chairman:** This meeting is adjourned until Thursday, when we will have the Catholic Hospital Association of Canada before us.

## APPENDIX "LL"

SUBMISSION  
ON  
ABORTION  
FROM  
THE UNITED CHURCH OF CANADA  
TO  
THE STANDING COMMITTEE OF THE  
HOUSE OF COMMONS  
ON HEALTH AND WELFARE  
FEBRUARY 6th, 1968

The Sub-Executive of the General Council of The United Church of Canada, meeting on December 14th, 1967, approved the following Submission on Abortion on behalf of The United Church of Canada, to the Standing Committee on Health and Welfare of the House of Commons, and further authorized the following Committee to present this Submission:

Rev. W. Clarke MacDonald—Chairman, Board of Evangelism and Social Service, The United Church of Canada; Minister, St. Luke's United Church, Toronto.

Rev. J. R. Hord—Secretary, Board of Evangelism and Social Service, The United Church of Canada, Toronto.

Alfred Best, Esq., Q.C.—Solicitor, Best, Hornell, Karswick and Saunders, Toronto, Ontario.

Dr. Patricia White—Psychiatrist, University Health Services, University of Toronto, Toronto.

Dr. Marjorie Moore—Obstetrician, Out-Patients' Staff, Women's College Hospital, Toronto, Ontario.

TO THE HOUSE OF COMMONS  
STANDING COMMITTEE ON  
HEALTH AND WELFARE  
REGARDING ABORTION

1. The United Church of Canada is grateful for this opportunity to present its views in favour of the amendment of the Criminal Code of Canada regarding Abortion to the Standing Committee of the House of Commons on Health and Welfare.

2. The United Church is opposed to abortion simply on demand. We believe that the foetus should normally be given the opportunity to develop and finally be born as a human person. (APPENDIX A)

3. However, the United Church, at its 22nd General Council, 1966 (see APPENDICES B AND C) requested a revision of the Criminal Code to permit therapeutic abortion "when continuance of pregnancy is likely to endanger the mother's life or seriously impair her physical or mental health."

4. This position is based on the following considerations:

(a) The present law is very *harsh*, making abortion seem cruel and even murderous, and therefore inhibits doctors from offering professional advice to women seeking an abortion;

(b) The present law is *conflicting*. It is true that an exception is made when the life of the mother is threatened but even then the doctor is not certain of his legal position and does not wish to get involved in a court proceeding;

(c) The present law gives rise to interpretations and social attitudes which are *unfair* to many women seeking an abortion, especially to the young and poor, who resort to the services of an illegal abortionist or may attempt to abort themselves. On grounds of Christian compassion we deplore the anguish and suffering of these women who in desperation subject themselves to such criminal procedures and face the risk of death or permanent disa-

bility, (of all direct obstetrical deaths tabulated in Ontario 1958-63, 25 per cent were the result of illegal abortion and this rate has remained the same in 1967 in metropolitan Toronto).

Rather than regarding women who are forced by the present law to seek illegal abortions as criminals to be punished, we should regard them as persons in need of compassion.

5. The United Church of Canada believes that the following conditions and safeguards should be observed in the law regarding abortion and recommends that the following procedure be adopted:

- (a) Permission to be secured from a Therapeutic Abortion Committee or similar competent authority on grounds of threat to the mother's physical or mental health. In our opinion the majority of this Committee should be practicing physicians, with other members drawn from the ranks of the legal profession, social work, psychiatry and clergy. In the case of emergency the judgment of a patient's doctor, who has consulted with one other doctor, would be regarded as sufficient;
- (b) written consent to be secured from the patient, or parent or guardian of a minor, except in cases of emergency when the life of the mother is in danger;
- (c) the operation to be performed by a qualified doctor, in hospital, except in cases of extreme emergency.

6. The 22nd General Council discussed the question of abortion in cases of rape or incest but decided that the situation could best be dealt with by the Therapeutic Abortion Committee which would take into account the threat to the mother's physical or mental health.

7. The United Church believes that abortion should not be an alternative to contraception. Therefore we again request, as we have already before this Committee, that Section 150 2 (c) of the Criminal Code, which forbids the advertising and sale of birth control knowledge and devices, be revised by removing the words "conception or". We believe that family planning is a fundamental right and responsible parenthood a fundamental duty of married couples.

8. The United Church of Canada strongly urges that adequate counselling services should be provided for women who are considering termination of their pregnancy. Doctors would be encouraged to counsel any patient desiring abortion. If they believe there is valid ground for such a request, a doctor would then express his willingness to present her case to the Therapeutic Abortion Committee of that area. If he does not believe there are indications for therapeutic abortion, he should refer her to other counselling services which will encourage and assist her in having her baby. Where possible a Social Worker should be attached to each hospital or prenatal clinic who would assist mothers and refer them, if necessary, to appropriate agencies which will provide financial and legal aid and moral support as required. Voluntary agencies, community or church based, should be strengthened in their counselling role. We wish to point out that an increasing number of clergy are being trained as professional counsellors and could be most helpful in providing services under discussion.

9. The United Church recommends that following the requested revision of the Criminal Code pertaining to abortion, a vigorous campaign be carried out to reduce the number of criminal abortions in our society. Such a campaign should include:

- (a) more public support of police investigation and prosecutions, with more severe sentences on conviction;
- (b) an educational campaign, through press, radio and TV, public meetings, panel discussions, etc. pointing out the dangers of criminal abortion to the life and future health of the mother;
- (c) establishment of tax supported family planning and birth control clinics.

#### APPENDIX A TO BRIEF SOME THEOLOGICAL AND ETHICAL CONSIDERATIONS SURROUNDING ABORTION

1. Since an embryo develops from very simple beginnings to the complex life of a child, we think of it as gaining value as the days and months of pregnancy continue, so that an abortion is considered more acceptable in the early stages of pregnancy than in the later stages; and whereas we could not

contemplate taking the life of a *born* child, we would tolerate the taking of the life of the unborn foetus when the life or health of the mother is at stake. We believe it is futile to try to decide when the foetus receives a soul as has been the concern of many church leaders and theologians, especially during the Middle Ages. We rather regard the foetus, especially during the first seven months, as potentially a human being, though not one yet.

The Sub-Committee of the Medical Women's Federation of Great Britain recommended in the British Medical Journal, September 17, 1966, that in the section of the Criminal Code re Abortion there should be one general clause covering indications for termination of pregnancy and that specific indications should not be listed. They further stated: "For those who deem the embryo to be a human being with rights, the choice lies between the rights of the *actual* human being, the *mother*, and the *potential* or hypothetical, the *embryo*. The *actual* has prior claim."

2. We live in a world where conflicts arise between life and life, e.g. police versus criminal, enemy pitted against enemy in war. Sickness, disease and suffering are manifestations of our sinful condition in this world. Ours is not an ethic of perfection but rather a *contextual* one. We see this conflict between life and life when a doctor recommends abortion in order to save the life or protect the health of the mother. A doctrine which states that a foetus has a right to live even at the expense of the life and health of the mother, is inadequate. When faced with medical indication for abortion, we believe that we should use the medical knowledge and skills which God has given us to save the mother's life and health.

#### APPENDIX B TO BRIEF THE NECESSITY TO RETHINK TRADITIONAL CHURCH VIEWS ON ABORTION

The question arises as to why the Church is concerned about revision of the Criminal Code regarding Abortion. Since the present legal code arose out of and has been supported by the religious views of the majority of people, The United Church of Canada believes that traditional Christian theological and ethical views which have regarded abortion as wrong and sinful need to be rethought in the light of modern medical, psychological, psychiatric and social insights. Some of the modern insights which are being taken into

account by The United Church of Canada in its thinking on abortion are:

(1) the increase in knowledge regarding conception control;

(2) the increased ability of medical science to diagnose maternal illnesses and detect retardation or deformity in children prior to birth;

(3) new insights into mental as well as physical health which need to be taken into account during the mother's pregnancy;

(4) the new freedom and independence of women in our society who are questioning old laws and practices which were instituted by a male dominated society and who are now demanding the right to make decisions regarding such matters as abortion which involves women more deeply and personally than men.

#### APPENDIX C TO BRIEF THE POSITION OF THE UNITED CHURCH OF CANADA RE ABORTION

The 19th General Council, 1960, approved the following statement: "Christian conscience cannot approve abortion, either as a means of limiting or spacing one's family, or a relief to the unmarried mother, because it involves the destruction of human life. However, if in the judgment of reputable medical authorities the continuation of pregnancy seriously endangers the physical or mental health of the mother, therapeutic abortion may be necessary."

The 22nd General Council, 1966, passed the following resolution on Therapeutic Abortion and related Issues:

"Whereas the Christian Gospel requires us to use our knowledge and skills to combat disease, save life and promote the well-being and dignity of every person;

Whereas we believe that therapeutic abortion would be justified when the life of the foetus threatens the life or health of the mother;

Whereas the sections of the Criminal Code of Canada pertaining to abortion are conflicting, leaving the impression that abortion is wrong and even murderous, in all circumstances;

Whereas the air of secrecy and guilt surrounding abortion dissuades a harrassed mother from discussing her problems openly and

honestly with her doctor and discourages doctors from dealing straight-forwardly with this situation, thus driving many women to attempt to abort themselves or to seek an illegal abortion, which is often carried out by unskilled persons, under very primitive conditions and which threatens the future health and even the life of the mother: BE IT RESOLVED THAT THIS GENERAL COUNCIL:

(1) Petition the Government of Canada to revise the Criminal Code to permit therapeutic abortion when continuance of pregnancy is likely to enganger the mother's life or seriously impair her physical or mental health, when the following safeguards are observed:

(a) permission is secured from a Therapeutic Abortion Committee of at least from three to five persons, the majority of whom would be doctors, except that in cases of emergency, the judgment of a patient's doctor, who has consulted, if at all possible with one or two other doctors, would be regarded as sufficient;

(b) written consent is obtained from the patient, or parent or guardian of a

minor, except in cases of emergency when the life of the mother is in danger;

(c) that the operation should be performed by a qualified doctor, in hospital or other suitable treatment centre, elsewhere only in cases of extreme emergency.

(2) Recommend that Government and voluntary agencies co-operate in providing adequate Counselling Services whereby mothers could receive financial and legal aid and moral support which would encourage them to have their babies.

(3) Appeal to all responsible citizens and groups to co-operate with Government in seeking to do away with the illegal abortion traffic.

(4) Petition against the Government of Canada to amend 150 (2) (c) of the Criminal Code which forbids the advertising and sale of Birth Control knowledge and devices in order that all parents may have the advantage of planning the size and spacing of their families."

## APPENDIX "MM"

## STATEMENT ON ABORTION

In conjunction with the United Church Brief on Abortion, Ottawa, February 6th, 1968

by

Rev. J. R. Hord

*Theological Considerations*

A number of persons and groups making submissions to this Standing Committee of the house of Commons on Health and Welfare have based their argument on the "natural law" theory—that is, the foetus has an inviolable right to life from the time the sperm and egg first unite in the mother's womb. Such an argument does not take into account other considerations such as the generosity of nature in producing sperms and eggs, the fact that 1 out of 5 abortions are spontaneous, the threat to the mother's life or physical or mental health.

The natural law theory may be convincing intellectually and certainly emphasises that human life is precious but does not stand up in the face of the complex decisions of real life. For this is a sinful world filled with conflict and compromise. The Christian ethic is not one of perfection but a continual one where decisions are made in the light of all the circumstances facing us in a given situation. Whereas upholders of the natural law theory are prepared to sacrifice the life of the mother when it is threatened by the foetus, the United Church of Canada is prepared to sacrifice the foetus when the life or physical or mental health of the mother is seriously threatened.

Our United Church brief declares that the foetus which has very simple beginnings has accruing value. We do not wish to get into the old argument as to when the soul is added to the foetus but certainly we cannot equate the value of the foetus in its early stages with the value of the foetus in its later stages or with the born child. And if an abortion is required it should be performed in the first months of pregnancy, if at all possible.

*The Situation in Some Other Countries*

Some of the briefs submitted to this Committee have been unfair in their criticism of

the practice of abortion in other countries. Whereas our delegation may question some aspects of the laws surrounding therapeutic abortion in Denmark, Sweden and Japan and opposes the frequency of such abortions, especially in Japan, we believe that Canadians should seek to understand why the laws of these countries were broadened to permit therapeutic abortion and certainly we should not be unfair in our criticisms.

*Aborted Babies Crying!*

One delegation charged that aborted babies in Japan cried. We should like to enter the following chart for the information of this committee. (see next page)

We therefore see that 94.3% of induced abortions in Japan in 1964 were performed before or during the third month.

Most Canadians are shocked at the number of abortions permitted in Japan. But even here we should acknowledge that whereas there was a peak of nearly 1,200,000 induced abortions in 1955, that number has declined to approximately 825,000 in 1964.

*Reasons for High Incidence of Abortions*

In a comparatively young country like Canada which has not yet faced the threat of overpopulation and where abortion has been strongly opposed by religious bodies, our laws against abortion remain quite stringent. But in countries where the natural resources have been depleted the numbers of population should be controlled and where religious institutions have ceased to have a strong hold on the lives of the people, abortion laws have been made more lenient.

"As soon as a country reaches a certain level of culture, some of the pregnancies among its population will be deliberately prevented from reaching term, regardless of the law in the country. The problems of birth control and abortion have to be faced by every civilized people".<sup>2</sup>

Whereas the United Church of Canada is not prepared at this time to consider socio-economic grounds for abortion we must acknowledge that many families do consider such arguments when they are confronted with the birth of another child.

We have the following excellent summary of the attitudes toward induced abortion in Japan:

“Truly a woman undergoing this experience (abortion) is not happy about it and often is remorseful after she has gone through with it...But, at the same time, one has to note that many women are so firmly determined in their decision on family limitations that they do resort to induced abortion, though reluctantly, when they are faced with the choice as between the artificial termination of an

unwanted pregnancy and the anticipated consequence of having an additional child. Japanese women as a whole do not necessarily associate induced abortion with the sense of religious sin and they tend to evaluate this particular behaviour in relation to its health hazards or what others may say about it, in addition to their own moral consideration. In short, induced abortion is by no means a commendable thing, but not infrequently pragmatic or realistic consideration outweighs moral or other personal restraints in the ultimate decision on this matter.”<sup>3</sup>

PERCENTAGE DISTRIBUTION OF INDUCED ABORTIONS, BY PERIOD OF GESTATION, 1954-1964<sup>1</sup>.

Month of Pregnancy	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964
Before Third Month...	46.2	47.5	49.3	49.4	49.9	50.4	51.3	52.0	52.7	53.3	54.3
During Third Month...	45.0	44.3	42.9	43.1	42.7	42.2	41.8	41.5	41.1	40.7	40.0
During Fourth Month...	3.2	3.0	3.1	2.9	2.9	2.8	2.8	2.6	2.6	2.5	2.4
During Fifth Month...	2.8	2.6	2.3	2.2	2.1	2.1	1.9	1.8	1.7	1.7	1.6
During Sixth Month...	2.0	1.9	1.7	1.7	1.7	1.7	1.6	1.5	1.4	1.3	1.2
During Seventh Month...	0.8	0.7	0.7	0.7	0.7	0.8	0.6	0.6	0.5	0.5	0.5
Unknown.....	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

<sup>1</sup>Japan's Experience in Family Planning—Past and Present, p. 74, Table 35.

Another fact that should be taken into account in the Japanese situation is the fact that the use of oral contraceptives has not been legalized in Japan. Certainly greater emphasis on birth control measures would help to limit the number of therapeutic abortions.

Another significant fact is that quack abortionists have been almost completely eliminated in Japan.

*Mothers' Aid Centres in Denmark*

In any consideration of therapeutic abortion special consideration should be given to a great humanitarian institution, the Mothers' Aid Centre in Denmark. This story is told in "Mothers' Aid In Denmark", Det Danske Selskab, Copenhagen, 1965.

For many years Mothers' Aid was a private organization which assisted unmarried mothers to have their babies and to adopt them if necessary.

In 1939 the Mothers' Aid Act was passed which instructed that Mothers' Aid Centres be set up all over the country paid for by the State and supplemented by private funds. The Mothers' Aid Act stipulated that the aim of the Mothers' Aid Centres "shall be to give pregnant women personal, social and legal assistance, advice and guidance in connection with their pregnancy, including information concerning both economic and medical help available during pregnancy and after birth, and the help for maintenance of the expected child, which is at their disposition".

A team of workers including social workers, lawyers, psychiatrists and gynaecologists are associated with the Centres.

The Mothers' Aid Centres are assigned responsibility for granting women permission to have therapeutic abortion or if such permission is refused to assist the mothers in having their babies. "In recent years about

one-half of the women who have applied to Mothers' Aid in respect of legal abortion have had their pregnancy interrupted."

Denmark has not been able to do away with illegal abortions, due in part at least to the fairly stringent conditions surrounding legalized abortion, but "during the past decade a drop of 10-14% in illegal abortions has been reported".<sup>4</sup>

Footnotes:—

<sup>2</sup> Page 3—Therapeutic Abortion and The Law In Sweden, The Swedish Institute, Stockholm.

<sup>3</sup> p. 78-79—Japan's Experience In Family Planning—Past and Present, March, 1967.

<sup>4</sup> Incidence of Conceptions and The Course of Pregnancy—Henrik Hoffmeyer and Magna Norgaard.

## APPENDIX "NN"

Apartment 808, The Estates  
188 Margaret Avenue  
Kitchener, Ontario.

November 1967

Chairman, Committee on Abortion Reform  
The House of Commons  
Ottawa.

Dear Sir:

Would the committee of members of Parliament presently examining our laws on abortion please consider these points:

1. Present laws (sections 209, 237 of the Criminal Code pertaining to abortion) are ambiguous and should be changed so that a clear definition be given on the legality of abortion.

2. Human life is a process of "growing in to" beginning with conception. We cannot call any stage past conception the point where "real humanity" starts. It is just that each later stage provides a greater complexity and perception than the stage before until maturity is reached. If maturity is the goal to reach it might be called the most valuable stage in this process of growing into life. But considering any other lower stages as, for example, in the fetal or embryonic stages, as being expendable just because they are so primitive is to make an unreasonable arbitrary assumption.

3. The woman carries and bears her child, but she alone is not responsible for the child. The father and mother together are not solely responsible for the child. Canadian law assumes that society as a whole shares in the responsibility for the child. Please do not rebuke this assumption by recommending that the decision to abort lies in the hands of the mother or both parents. I believe that district courts should appoint a committee of responsible persons, including doctors and clergymen, to recommend to the judge or magistrate the merits of the case and their

decision. The judge or magistrate should rule on it. The committee should be well informed on possible situations, including emergency situations. And these should be outlined in the law where possible.

4. In the case of "either-or"—the life of the baby or the life of the mother, one life, not both, let not the primitiveness of the baby's life be the sole consideration.

5. The present laws state that a danger to the life of the mother is the only legal grounds for abortion. The United Church of Canada, of which I am a minister has suggested that danger to her health be another grounds. I disagree on the assumption that life *per se* is more valuable than health. The mother may be able to recover in time through medicine and help from family and others, but her child cannot recover from death. The possibility of malformation in the child is insufficient for abortion since this possibility may not become reality and since it is possible to live a meaningful life though handicapped.

6. Clinics should be set up to advise on contraception. Other clinics should be set up on the lines of present homes for unwed mothers to give care to mothers and help them carry the baby to parturition. The government should issue information stating that it will give free care and help to women who have troubled consciences on abortion. I believe that our churches should discuss this openly, although, I suspect that most of illegal abortions are done to women who have scarce church connections. Society must grow away from its tendency to condemn illicit sex and towards a strong reverence for life above every other value. I believe that most of the abolitionists of abortion laws have placed absence from suffering above human life itself. And this I believe to be wrong.

Yours sincerely,

(Rev.) David Burns.



OFFICIAL REPORT OF MINUTES  
OF  
PROCEEDINGS AND EVIDENCE

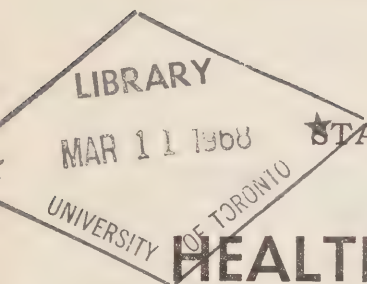
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Translated by the General Bureau for Translation, Secretary of State.

ALISTAIR FRASER,  
*The Clerk of the House*

HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1967-68



★ STANDING COMMITTEE  
ON

# HEALTH AND WELFARE

*Chairman:* Mr. HARRY C. HARLEY

## MINUTES OF PROCEEDINGS AND EVIDENCE

No. 19

THURSDAY, FEBRUARY 8, 1968

Respecting the subject-matters of

Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

### WITNESSES:

*Representing the Catholic Hospital Association of Canada:* Reverend Maurice Dussault, O.M.I., Executive Director; Reverend John W. Mole, O.M.I., Editor of the Bulletin and Information Officer; Reverend L. St-Arnaud, O.M.I., Consultant of Medical Problems, Assistant Director of the Centre of Pastoral Psychiatry of St. Paul University; Mr. David Dehler, Legal Adviser, all of Ottawa; and Mr. E. Brown, Administrator of Hôtel-Dieu Hospital of Kingston (Ont.).

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1968

STANDING COMMITTEE ON HEALTH AND WELFARE

*Chairman:* Mr. Harry C. Harley

*Vice-Chairman:* Mr. Gaston Isabelle

and

Mr. Allmand  
Mr. Ballard  
Mr. Brand  
Mr. Brown  
Mr. Cameron  
    *(High Park)*  
Mr. Chatterton  
Mr. Cowan  
Mr. Enns

Mr. Forrestall  
Mr. Howe (*Wellington-Huron*)  
Mr. Knowles  
Mr. Laverdière  
Mr. MacDonald (*Prince*)  
Mrs. MacInnis (*Vancouver-Kingsway*)

Mr. Matte  
Mr. Orange  
Mrs. Rideout  
Mr. Rochon  
Mr. Rock  
Mr. Rynard  
Mr. Simard  
Mr. Stanbury—(24).

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

THURSDAY, February 8, 1968.

(22)

The Standing Committee on Health and Welfare met at 11.15 o'clock a.m. this day. The Chairman, Mr. Harry C. Harley, presided.

*Members present:* Mrs. MacInnis, Mrs. Rideout and Messrs. Allmand, Brand, Brown, Chatterton, Cowan, Forrestall, Harley, Howe (*Wellington-Huron*), Isabelle, Knowles, MacDonald (*Prince*), Orange, Rock, Rynard, Stanbury—(17).

*In attendance:* *Representing the Catholic Hospital Association of Canada:* Reverend Maurice Dussault, O.M.I., Executive Director; Reverend John W. Mole, O.M.I., Editor of the Bulletin and Information Officer; Reverend L. St-Arnaud, O.M.I., Consultant of Medical Problems, Assistant Director of the Centre of Pastoral Psychiatry of St. Paul University; Mr. David Dehler, Legal Adviser, all of Ottawa; and Mr. E. Brown, Administrator of the Hôtel-Dieu Hospital of Kingston (Ont.).

The Committee resumed consideration of the subject-matter of Bills C-122, C-123 and C-136.

The Chairman acknowledged receipt of a letter dated January 24, 1968, from the Director General of the Hôtel-Dieu Hospital of Dolbeau, Que., including the Minutes of a meeting of the Board of Directors of this Hospital, held January 22, 1968, expressing their views on abortion.

*Agreed*,—That the above documents be printed as an appendix to this day's proceedings. (*See Appendix "OO"*)

The Chairman read into the record a translation of a letter received from Most Reverend Gérard-Marie Coderre, Vice-Chairman of the Canadian Catholic Conference.

All other conditions having been fulfilled, on motion of Mr. Brand, seconded by Mr. Forrestall,

*Resolved*,—That the amount of \$15.00 in American currency be paid to The University of Chicago Press for authority to reproduce, as an appendix to the proceedings of this Committee, an article by Andras Klinger entitled "Abortion Programs", published in *Family Planning and Population Programs*. (*See Appendix "PP"*)\*

The Chairman introduced Father Dussault who, in turn introduced the other delegates; he read a prepared statement and an appendix to the brief.

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\* (Reproduced with the permission of the Author, Mr. Andras Klinger, of the Hungarian Central Office of Statistics, of the Editor, Bernard Berelson, and of the Publisher, The University of Chicago Press.)

*Agreed*,—That the submission of the Catholic Hospital Association of Canada and the Excerpts of the Moral Code of the Association be printed as an appendix to this day's proceedings. (*See Appendix "QQ"*)

The representatives of the CHAC were severally questioned.

At 2 o'clock p.m. the Committee adjourned to 11 o'clock a.m., Tuesday, February 13, at which time the Canadian Welfare Council and a private group of ladies will present briefs.

Gabrielle Savard,  
*Clerk of the Committee.*

## EVIDENCE

(Recorded by Electronic Apparatus)

Thursday, February 8, 1968

**The Chairman:** Ladies and gentlemen, I see a quorum. We can now proceed with this morning's meeting. Before we hear from our witnesses this morning I would like to bring some correspondence to your attention.

First of all, we have a letter dated January 24 from the Director General of the Hôtel-Dieu Hospital of Dolbeau, Quebec, including the minutes of a meeting of their board of directors expressing their views on abortion. I think this is very apropos of today's meeting and I would like to suggest that this letter and the extract from the minutes be printed as an appendix to today's proceedings. Is this agreed?

**Some hon. Members:** Agreed.

Secondly, I have a letter from the Canadian Catholic Conference which I think I should read to the Committee:

90 Parent Avenue,  
Ottawa 2, Canada

[Translation]

February 2, 1968

Dear Mr. Chairman,

In the absence of the Most Reverend Alexander Carter, President of the Canadian Catholic Conference, I am pleased to officially acknowledge receipt of your two letters dated January 23 and 25 last. Please accept our thanks for all the details which you have given us on what has recently happened, also for the earnest invitation which you have forwarded to us on behalf of the members of the Committee.

It is with pleasure, Mr. Chairman, that I inform you after consulting with my colleagues—that the Canadian Catholic Conference agrees to your last request to delegate representatives to talk to the members of the parliamentary committee. This meeting could be held before the end of the month at a date to be determined between you and the Secretary General of the Canadian Catholic Conference.

As you already know, the Catholic Bishops of Canada will publish a "pastoral declaration" on abortion soon. You will personally receive a copy, as well as all the Members of the Senate and of the House of Commons. The delegates of the Canadian Catholic Conference will be happy to discuss, at the proposed meeting, this official document with the members of the Committee, and to comment on it, as need be.

Yours truly,  
(s) G. M. Coderre  
Gérard-Marie Coderre,  
Bishop of  
Saint-Jean-de-Québec  
Vice-President of the  
C.C.C.

I should mention this is an English translation of the letter which was written in French, compliments of the Clerk of the Committee.

Perhaps I should mention—although I do not see a copy here—that I also answered this correspondence yesterday in French. On behalf of the Committee I replied that we were most pleased with their decision to appear before us and suggested the date of February 20. I communicated this suggestion to them verbally as well, but as yet I have not had a confirmation of that suggested date.

I have one other matter to bring to the Committee's attention. I think it was Dr. Brand who brought to our attention an article called "Abortion Programs" written by Andras Klinger of the Hungarian Central Office of Statistics, which was published in *Family Planning and Population Programs*. After many complications we finally received permission from Mr. Berelson, the Editor, and Mr. Klinger himself to reprint this article. However, the publishers, the University of Chicago Press, will give us their permission in return for the payment of a \$15 fee to cover handling costs in their office.

The payment of this \$15 will require a motion from the Committee.

**Mr. Cowan:** American or Canadian funds?

**The Chairman:** American funds.

**Mr. Cowan:** Dr. Brand will pay the bill.

**Mr. Brand:** I move that the amount of \$15.00 in American currency be paid to The University of Chicago Press for authority to reproduce, as an appendix to the proceedings of this Committee, an article by Andras Klinger entitled "Abortion Programs", published in *Family Planning and Population Programs*.

I so move with the proviso that an appendix be added to the effect that this is our small contribution to help bolster the American dollar...

**Mr. Forrestall:** I second the motion.

Motion agreed to.

**The Chairman:** We now will get down to the examination of today's brief, which is to be presented by the Catholic Hospital Association of Canada. I would ask the main spokesman for the group, the Reverend Father Dussault, the Executive Director of the Catholic Hospital Association to make a brief statement to the Committee and to introduce the delegation.

**The Rev. Maurice Dussault, O.M.I. (Executive Director, The Catholic Hospital Association of Canada):** Mr. Chairman, ladies and gentlemen, the Catholic Hospital Association of Canada appreciates this opportunity to present its views on abortion before your Committee.

Allow me, first of all, to introduce the members of the delegation that are here to represent the Association. On my right is Mr. Eric Brown, who is the Administrator of the Hôtel-Dieu in Kingston. By the way, Mr. Brown is an elder of the Presbyterian Church, but he is Administrator of a Catholic Hospital.

Then we have Father Mole who is the Editor of the English section of our Hospital Association bulletin and he is also our Information Officer.

We have Mr. Dehler who is our Legal Adviser, and Father St. Arnaud who is our Consultant on Moral Medical Problems and he is the Assistant Director of the Centre of Pastoral Psychiatry at the University of St. Paul.

Following your recent recommendation, the government has introduced a bill to amend the Criminal Code whereby abortion, under

section 237, while remaining a crime punishable by life imprisonment, will in future be permitted, provided it is done in a hospital. That is, those who perform abortions will not be prosecuted if they operate inside a hospital. If caught doing it outside, they can be sent to prison for life.

The government has not chosen to frame a new law wherein abortion is considered an ethical practice. It has chosen rather to leave it to the hospital to sanction abortion, if it so chooses. Or, if you like, it suggests that the hospital be considered as a sanctuary in which abortion can take refuge.

However, the hospital administrator or trustee has to examine the implications of any practice that is proposed as something that can suitably be done in a hospital. He has to ask if it is consonant with good hospital practice, or if it will give the hospital a bad name. It is important to maintain the nobility of purpose for which a hospital stands, otherwise it will become difficult to attract young men and women of integrity into the service of the sick.

The dedicated hospital worker is normally one who wants a patient to leave the hospital in a better condition than when he entered. Even if he leaves diminished in physical vitality, he should at last be renewed in spirit, that is, with his courage intact, or even increased.

This spirit of dedication can only be kept alive in a hospital if it has a philosophy of life which infuses such a spirit into its staff. I do not necessarily mean a Catholic philosophy of life. It suffices to refer to the philosophy of the good Samaritan or even to the minimum of compassionate concern necessary to prevent the personnel of a hospital from becoming mere robots, untouched by the drama of life and death that is daily enacted before their eyes, and indifferent as to whether the patient lives or dies or whether he leaves the hospital in a better or worse state than when he entered.

Abortion has been presented to the Canadian public, notably by the CBC program *The Way It is*, as no more serious in its implications than the removal of tonsils or some other kind of unwanted tissue or protoplasm. It would indeed be surprising and distressing if there were a single hospital in Canada where such an attitude prevailed.

It is a well known principle in hospital practice that nothing must be taken for granted where life is at stake. The procedures that hospital personnel must follow are not to be applied only when there is a *certainty* of life; they are to be applied so long as there exists a *presumption* of life.

As a foetus can at least be *presumed* to be endowed with the human right to live, I would be disturbed to know of any hospital director who would direct his staff not to give the benefit of the doubt to the foetus. In failing to grant such a presumption, he would be abandoning a cardinal principle of hospital practice: when in doubt, the doubt must be resolved in favour of life, not death.

The hospital is an institution which, in principle, stands for life. Death is allowed to break in only with the greatest reluctance and only after the utmost resistance has been exercised. The reason why the hospital as an institution must hesitate before giving its good name to abortion is that this term is a euphemism for a death-dealing procedure. To refer to abortion as "therapeutic" is an obvious contradiction in terms, and it does not alter in the slightest the grim reality of what abortion is.

The hospital, therefore, as an institution, cannot *lightly* confer its good name on such a practice. It has to ask itself first: what will happen to the philosophy of life which must inspire its work for suffering humanity, and which it must also radiate into the community which it serves.

We note that two kinds of advocacy of abortion have been made before your Committee. One proposes that abortion should be treated as an inevitable evil and that, if it is to be done at all, it had better be done in hospital. This seems to be the position of the Medical Association and of church groups that have appeared before you. The other group actually champions the cause of abortion and claims that it represents a *better* philosophy of life than has hitherto guided medical practice. It constantly asserts abortion to be a practice that is *more* humanitarian, *more* civilized, *more* enlightened, *more* modern, and so on.

The latter group tends to go to extremes of urging abortion on demand, and so on, but seems more logical in one important respect in that it acknowledges that underlying the question of whether abortion should be allowed, there is an even more serious ques-

tion of the philosophy of life it represents. This group admits that if we accept the practice, we must also accept the philosophy that goes with it.

And that is the aspect that really concerns the hospital administrator since, as we have said, it is his duty to see that the people working under his direction are inspired by a philosophy of life that will render them truly dedicated to the service of the sick.

For my part, I can only refer to the philosophy of life that governs a Catholic hospital and the incompatibility of the practice of abortion with that philosophy. It is a philosophy that cannot be considered as rendering a disservice to Canada since it presided over the birth and early growth of the Canadian hospital system. The first hospitals in Canada, in fact, were Catholic hospitals.

Our 300 Catholic hospitals today comprise only about one-third of the total hospital services of the nation. The Catholic hospital therefore no longer is making as great a quantitative contribution, proportionally at least, as it did in the past, but we wish to continue to make a *qualitative* contribution; that is, to continue to contribute to the quality of the ideals that inspire hospital work in Canada, and to *exemplify* such ideals as much as we can in the institutions which remain to us. If we did not do this, we would have no business at all in the hospital field.

If we gave birth to the Canadian hospital system as a whole, it is only natural that we should ardently want to see it grow and develop always in the direction of an ever *greater* respect for human life, rather than be deflected in the direction of a diminishing respect. And that perhaps is the difference between us and the first group of advocates of abortion I mentioned; they seem to accept this possibility of a diminishing respect with a certain fatalism, as an unavoidable evil, while we are not prepared to resign ourselves to the idea.

In any event, our position is that withdrawing the protection of Canadian law from human life in the prenatal stage of development, and asking the hospitals to sanction the practice of abortion, is a step in the direction of a diminishing respect for human life. There is no minimizing the gravity of so doing. If the proposed amendment to the Criminal Code is passed, it will be a breach in the principle of the inviolability of innocent life, a principle that only 20 years ago was enshrined in the Universal Declaration of Human Rights.

Once this breach is made, it will be virtually impossible to prevent it becoming wider and wider as more and more reasons for extending the grounds for abortion are insisted upon.

The obligations of the trustees and administrators of Catholic hospitals are expressed in a Moral Code, drawn up by the Catholic Hospital Association of Canada. All who work in a Catholic hospital, particularly members of the medical and nursing staffs, are expected to observe this Code. They can perform only such acts and carry out such procedures as are consonant with the manner in which a Catholic hospital envisages the sacredness of human life from its earliest stages until the last breath is drawn. The articles that deal with abortion are herewith presented in a list which we submit as an appendix to our brief.

• 1130

Our brief is presented in virtue of a resolution passed at the last general meeting of our Association in May, 1967, and which was to the effect that its aversion to the practice of abortion should be publicly announced. Further consultations, especially with various provincial Catholic Hospital Association, brought us to the conclusion that the appropriate way to implement this resolution was to present our views in a brief to your Committee.

The brief has been sent to all the members of our Association. It is now presented to you without a single dissenting voice from any of those members.

The Board of Directors of our Association, at a recent meeting on February 2, 1968, requested me to add the following statement on their behalf and they would appreciate it, if you would kindly consider it as an appendix to the brief:

1) While we respect the opinions of those who do not share our beliefs, a right which is inherent in the dignity of the human person, we would point out that the State is the guardian of those laws of morality that are commonly accepted by citizens generally as the foundation on which our society is built. Among these is the law of respect for human life. The sanctioning of any practice which could weaken this respect will also weaken the foundations of our society.

2) Our position against abortion is not determined by our Catholic beliefs but rather

confirmed by them. For instance, the central Christian doctrine of the Incarnation means that God dwells within man, first within Christ and then in all men as members of Christ. Consequently, the human body becomes the temple of God. This belief reinforces our conviction that the life of any human being, at any stage of its existence, must be treated with infinite respect.

3) In regard to the problem of clandestine abortions, we believe that it should be treated more as a symptom of a social disease, rather than as the disease itself. Or, to put it another way, the only satisfactory measures to be taken in regard to such a social problem are preventive measure. We think that governments at all levels should take positive measures in view of fostering values of family life to the fullest degree. A profound study should be made of all unsolved problems that militate against the possibility of all citizens enjoying their rights to conjugal and parental happiness in a normal home environment. Concrete measures should be taken to improve family housing, family counselling clinics, appropriate sex education, definition of the juridical status of the unwed mother so that she and her child can be assured of adequate assistance, and other similar measures.

**The Chairman:** Thank you very much, Father Dussault.

Is it agreed that the brief of the Catholic Hospital Association of Canada and the excerpts of the Moral Code of the Catholic Association of Canada be printed as part of today's proceedings?

**Some hon. Members:** Agreed.

**The Chairman:** The meeting is open for questioning.

**Mr. Rynard:** Father, you say in your brief that the Canadian Medical Association seems to accept this possibility of a diminishing respect with a certain fatalism, as an inevitable evil. What do you mean by that?

**Rev. J. Mole (Editor of The Bulletin of the Catholic Hospital Association of Canada and Information Officer):** This question can be answered from the statement of Dr. Aitken who presented the brief for the Canadian Medical Association to your Committee. This statement is found on page 98 of your report No. 4 and reads as follows:

I should also like to say—and I think I speak for most doctors—that doctors do not look forward to doing a therapeutic abortion: this is not our idea of a pleasant way to spend an afternoon. It is done because, with the best motives in the world, they feel this is the best thing to do for a particular patient. I do not think there are very many doctors who have anything but distaste for doing an abortion, and I would like you to remember that it is not because we like doing abortions that we are suggesting a broadening of the Criminal Code in this respect.

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In other words, it sounds like an unnecessary evil.

**Mr. Rynard:** I wanted that on the record. But this would be done to save the life of a mother. If the mother dies you are going to lose the foetus, and this is not compatible with any position that I could take. I hope I deeply respect the Catholic religion, but this I could not accept because you are going to lose two lives.

**Rev. J. Mole:** Are you speaking of direct abortion or indirect abortion?

**Mr. Rynard:** How do you mean?

**Rev. J. Mole:** I think this distinction has already been introduced to your Committee both by the Anglican...

**Mr. Rynard:** Well, that is just your theory.

**Rev. J. Mole:** As you know, the Catholic practice of direct abortion to save the life of the mother is permitted.

**Mr. Rynard:** You are accepting that it is all right to do that.

**Rev. J. Mole:** Excuse me, I should have said that indirect abortion, to save the life of the mother is permitted as good hospital practice. However, the distinction brought between the two groups that advocate abortion is merely to...

**Mr. Rynard:** I would like to keep my conscience very clear on this. As a practising doctor, if I felt we were going to lose a mother, and my colleagues came to the same conclusion, then in all conscience we would have to do an abortion because otherwise we would be condemning two people to death, and this

I could not reconcile with my position as a Christian.

**Mr. David Dehler (Legal Adviser):** I might be able to help you doctor, if I may. I am also a Catholic and I think this confirms the fact that we are not here to pose the Catholic moral point of view in the situation you speak of. The Criminal Code already permits abortion in the case you speak of and therefore we are not here advocating that that ground be withdrawn from the Criminal Code but rather that the grounds not be increased.

**Mr. MacDonald (Prince):** I would like to pursue a little further some of the questions that arise as a result of Dr. Rynard's remarks. I find some difficulty in understanding direct and indirect abortion, as interpreted by you. In Article 16 of the appendix you submitted today you suggest:

Direct abortion is never permitted, even when the ultimate purpose is to save the life of the mother. There can be no condition of pregnancy constituting an exception to this prohibition.

Then you go on in Article 17 to suggest:

Operations, medications and treatments during pregnancy, which have for their immediate purpose the cure of a proportionately serious pathological condition of the mother, are permitted, even though they terminate pregnancy, on condition, however, that they cannot be postponed until the foetus is viable, without danger to the mother.

Then you go on in Article 18 even further. I will not read the rest of them because they are sort of consequent upon Article 17. It seems, from what you suggest here, that it depends on which way you want to look at a particular situation. You suggest in Article 16 that direct abortion is never permitted, even when the ultimate purpose is to save the life of the mother, and then you talk about operations which may be necessary to save the life of the mother and if an abortion results, then that is simply part of the process. Frankly, this seems like sophistry more than a very clear-cut distinction between two different situations.

**Rev. L. St. Arnaud:** I would say that it is more than just a question of language. I think doctors will agree that usually they can determine whether the cases are of this nature. If

a case should arise where the prime consideration is an attempt to save the life of the mother and if as a consequence this entails the death of the foetus, we call this an indirect abortion. These are not just words. First of all, the operation has to be performed by a doctor to protect the health of the mother and, as I said before, if as a consequence, it has the natural effect of killing the foetus, the result is what we call an indirect abortion. This is why there is this possibility.

• 1140

**Mr. MacDonald (Prince):** Is it not true, as you suggest in the appendix, that you would not permit an abortion to save the life of the mother?

**Rev. L. St. Arnaud (Consultant on Moral Medical Problems—Assistant Director of the Center of Pastoral Psychiatry):** No, I think this is putting the question too broadly. We are not saying that. We are saying we believe—and I think medical science today would support our contention—that there is no case, except an extremely rare one, in which the doctor is really forced to first kill the foetus. In other words, there can always be a case where the doctor can show that he is trying to help the mother and unfortunately the first thing he does, is to kill the foetus.

**Mr. MacDonald (Prince):** Your argument is that it depends on which happens first. If you first have to perform the abortion to save the life of the mother, that is abortion, but if you first save the life of the mother and the abortion is the second thing that occurs, that is not abortion. In that case it can be called something else.

**Rev. L. St. Arnaud:** You can put it that way if you want, but that is not what we have in mind. We believe it is not a matter of choosing which comes first, it is a matter of the doctor being sufficiently aware of what is going on from a medical science standpoint to be able to judge whether something can be done first which will directly concern the mother, and I think this happens in a number of cases.

**Mr. Rock:** In our legislation we used the word "health" and you also mention it. If the health of the mother were involved would you permit this "indirect"—as you call it—abortion?

**Rev. L. St. Arnaud:** No, that is not what I meant.

**Mr. Rock:** If it had to be done it would be done?

**Rev. L. St. Arnaud:** No. I will first try to explain what we mean by "indirect". If the result is an indirect abortion, the doctor can then fall back on the Criminal Code, which says that in the case of a procedure which is bound to come to abortion this "indirect" abortion is the result of an attempt to protect the life of the mother.

**Mr. Rock:** But you said "health" before, which means the same thing at times.

**Rev. L. St. Arnaud:** Yes, but I was trying to answer the first part of the question by explaining what the "indirect" way means, and then secondly, as it applies to abortion.

**Mr. Rock:** Yes.

**Mr. MacDonald (Prince):** I am rather intrigued by the fact that throughout your presentation you have placed a great deal of stress on the physical aspects of life. I am even more intrigued that three of the five witnesses with us this morning are professional theologians and clergymen, and it surprises me that you are more concerned with the actual physical and mechanical concept of life than with the so-called spiritual, mental and social aspects of life. Of course, this is a judgment based on values. If you will first let me finish, I will then let you respond.

To return to your statement about the quality of life, you mention quite often the fact that the life of any human being at any stage of its existence must be treated with infinite respect. I wonder how you can justify that with the statement you made about the quality of life—and you spent some time developing this theme on the quality of life—by saying, as you do in article 16:

Direct abortion is never permitted, even when the ultimate purpose is to save the life of the mother.

I wonder what scale of values exists for the life of the mother in terms of these statements on the quality of life?

**Rev. L. St. Arnaud:** I do not think that is quite what we said. We came here as a hospital association and therefore I do not think your question as to whether we, as priests or

clergymen, favour life is pertinent or relevant. We are a hospital association and therefore, are taking ...

**Mr. MacDonald (Prince):** It is a specific hospital association, Father, and as I understand it, it is a Roman Catholic hospital association.

**Rev. L. St. Arnaud:** But just the same it is a hospital association, do you not agree?

**Mr. MacDonald (Prince):** Oh, I agree it is a hospital association, but it is not "just the same." I do not think you would agree it is "just the same" as any other hospital association. That is the reason you have maintained your identity.

• 1145

**Rev. L. St. Arnaud:** We are first of all a hospital association, and I will then add whatever is specific. Is that correct?

**Mr. MacDonald (Prince):** Surely.

**Rev. L. St. Arnaud:** Secondly, if you read the brief carefully you will see we are suggesting that the physical aspect of it alone is not the determining ground for taking any solution for granted. In other words, we want to stress the fact that the answer is 100 per cent at the level of psychological, socio-psychological and socio-economic health. Our story, to a certain extent, is that there does not seem to be any particular recourse to this answer—which is the only answer. You may recall when Dr. Williams presented a brief previously he stressed the fact that even at the level of psychiatric assistance "crisis" clinics were needed, and I think this would be particularly true in this case. We are definitely stressing the point that we want everything that can be done at the level of socio-psychological and socio-economic conditions to be done quickly because these are the true conditions which are disguised in the term, "psychiatric indications".

**Mr. MacDonald (Prince):** The difficulty is that we have had testimony before this Committee from a number of different sources—churches as well as other groups—suggesting that in order to deal with the very things you have raised we must not treat the question of abortion as an absolutely inflexible taboo, and that there are such basic questions as the priorities of life and the qualities of life which must be considered. This is what

concerns me in the presentation you have made today.

**Rev. L. St. Arnaud:** We have stressed this and this is precisely why we want to emphasize that even if a person leaves a hospital without full physical fitness, we see to it—I think the administrator will confirm this—that we do our utmost to protect the quality of whatever physical life that person still has. This is specifically the entire policy and philosophy of, Roman Catholic hospitals, as well as others.

**Mr. MacDonald (Prince):** Yes, but, in fact, you said that we can consider all these socio-economic questions, and the mental and physical aspects of health apart from life itself, but we must not consider the question of abortion in that context.

**Rev. L. St. Arnaud:** We did not say that. We are saying the very opposite. We want abortion to be considered within that context alone and not to be lifted out of it and treated separately. This is the very opposite.

**Mr. MacDonald (Prince):** I fail to see how you could say that when in article 16 it is very clear that the—

**Rev. L. St. Arnaud:** You are reading one article out of context.

**Mr. MacDonald (Prince):** I am misinterpreting it, I would be quite happy to have it explained to me so that I can understand it.

**Mr. Dehler:** May I attempt to answer your question in this way. I hope I will be corrected, of course, if my interpretation is wrong. First of all, I think you have to read article 16 in conjunction with article 12, where you will find out what is meant by "direct" abortion. Second, my understanding is that the end does not justify the means. On the basis of this principle one can distinguish between a direct abortion, which means the direct killing of life to save life and where the direct killing of innocent life is the means to the end, and indirect abortion which is a surgical procedure aimed at remedying the disease which perhaps inevitably results in the death of the foetus. In this case the death of the foetus is not the means to the end but the unavoidable result. The means is curing the illness by surgical procedures. In short, in that case it is not the death or life of the foetus that is the means.

**Mr. MacDonald (Prince):** I would say, though, Mr. Dehler, that your whole interpretation is founded upon a one-dimensional view of life. That life can only be looked at in human life as being much more than its isolated physical aspect, in its biological sense. I would say that I at least regard biological.

**Mr. Dehler:** I do not agree that it is based on a one-dimensional view of life. Rather, it is the contrary. If it were only a one-dimensional view of life, and if we were simply, speaking of something that was not life, then there would be no problem in speaking of abortion at all. It is rather the reverse. It is because there is more to life than the physical that you cannot invoke the killing of a foetus for the various reasons which are being invoked.

For example, is the health of the mother a justifiable reason for taking an innocent life? Is the post natal condition of the child a justifiable reason for taking life in the womb? If it is, then those who advocate it are simply looking at it in terms of the physical post natal life. What you are saying can be turned around the other way.

**Mr. MacDonald (Prince):** That is your interpretation of it. I do not think other people—who have testified would agree. Perhaps we should get away from this subject.

**The Chairman:** Was that your last question?

**Mr. MacDonald (Prince):** No, I have a number of others I will go to one now that I think is important.

You suggest in your brief that the basic problem facing our Committee is that we have not received enough accurate information, we have not looked far enough afield to what has happened in other countries and that we do not have accurate figures on the number of illegal abortions and the whole process by which they are performed in this country. Frankly, no one has yet suggested how we get those figures or offered to do a survey for us. However, you suggest, and you say at one point that this is your sole recommendation, that we should propose a royal commission be set up to investigate these matters. Frankly, you have much more faith in royal commissions than I have. With respect to the matter of a royal commission, would the Catholic Hospital Association of Canada be willing to accept the judgment of a royal

commission which has taken the time and canvassed the field as comprehensively as they can? Would you be willing to accept their judgment or their recommendations for legislative action by the government?

**Rev. J. Mole:** Let us say we would be more satisfied in that case that a more thorough investigation was being made into the problem. It is not a question of it enlightening our consciences, it is a question of enlightening the consciences of the whole nation. We would feel more satisfied that the people of Canada had received a better chance to enlighten their minds on this subject. It is not a question of having faith in royal commissions as such but, to put it frankly, we have more faith in a royal commission than in this Parliamentary Committee.

**Mr. Knowles:** But would you accept it?

**Rev. J. Mole:** Actually, we would have to wait for the royal commission to present its report. I presume a royal commission would present its report only after having received evidence, rather than before having received it. That is one reason we have more faith in a royal commission.

**Mr. Cowan:** That is not a crack at anybody, is it, sir?

**Mr. MacDonald (Prince):** Mr. Chairman, before I conclude, to show that I am not completely on the side of the devil, I might say that for some years I have been a director of a Catholic hospital in Prince Edward Island, and I have great respect for the services of these hospitals.

**The Chairman:** Mr. Forrestall?

**Mr. Forrestall:** Mr. MacDonald dealt with the area I wanted to pursue. I think your answer has been definitive partly because the question, as Mr. MacDonald suggested, was very parliamentary in form and therefore very broad.

Many of us on this Committee have been rather concerned that we do not have the facility to gather the type of information required. Do you envisage in the type of information that would be of some value to us an exhaustive inter or intra-disciplinary study of the whole broad field? How do you suggest that a royal commission could accomplish this? By simply travelling around and doing what we are doing right here? Do you

suggest that the royal commission travel around the country?

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**Rev. J. Mole:** Because of the fact that a royal commission is a Crown judicial body it would be a non-partisan type of study, and also the fact that I presume it would have a larger budget to engage specialized assistance. For instance, on its staff it would at least have a qualified statistician to evaluate the type of statistical information that is submitted to it, and so on. It would have the resources and I presume it would have the power. Royal commissions even have the power to summons witnesses. I presume you can only invite witnesses to attend, but royal commissions can summons witnesses.

**The Chairman:** As you said, I think it would have the power to summons witnesses.

**Mr. Dehler:** Perhaps I could add to this by saying that a royal commission would be engaged on a full-time basis in the study of this problem. You are all very busy men, you sit on many committees and you have many other responsibilities, and as hard and as sincerely as you work, you do not have sufficient time to give this problem your full attention.

**Mr. Brand:** We just make the laws, that is all.

**Mr. Knowles:** We are just responsible to the people.

**Mr. Dehler:** Yes, but I would envisage the terms of reference of a royal commission to be as follows. Firstly, it would be fact-finding of the true situation in Canada and fact-finding of the true situation and results in other countries. Secondly, it would be given terms of reference to recommend two things which are quite essential. Will the laws which are proposed to broaden the grounds for abortion actually result in a decrease in illegal abortions, such as is presently being talked about? That is the recommendation, and they have to come up with a finding. Secondly, is the proposed widening of the abortion laws the only means of decreasing illegal abortions?

If the answer to those two questions is "yes", that in fact it will decrease illegal abortions and, secondly, that it is the only means of decreasing illegal abortions, then it would follow in effect that the law could well

be defended as a means of diminishing the number of deaths rather than promoting the killing of innocent life, and it would be the lesser of two evils. However, the answer to those two questions would have to be based on fact. If those two questions are not answered, I do not see how the present laws can seriously be invoked to bring about what they say they are going to do.

**Mr. Forrestall:** How seriously does the Catholic Hospital Association as such view the incidence of illegal abortion in Canada? For example, in the preparation of your brief did you arrive at an arbitrary figure of the number of illegal abortions and the consequences to the women involved?

**Mr. Dehler:** I do not think these statistics are available.

**Mr. Forrestall:** No, but in other words did you consider the degree of seriousness of this situation?

**Mr. Dehler:** Oh, yes.

**Mr. Forrestall:** If so, what norm or standard did you use in the preparation of your brief?

**Rev. L. St. Arnaud:** We looked up the statistics already published and we found that they did not make sense even from a mere statistical point of view.

**Mr. Allmand:** The witness who feels best able to answer this question can answer it. When you have a spontaneous abortion or miscarriage in a Catholic hospital what is done with the foetus afterwards?

• 1200

**Mr. E. Brown (Administrator of Hotel Dieu Hospital, Kingston):** As a hospital administrator, there are basically two things to do. First of all, if there is some condition of the foetus that requires pathological study then the foetus is taken to the pathologist in the laboratories and a study is made. Then, whether or not a study is made, the foetus is retained and is eventually buried. It is taken to a cemetery for burial.

**Mr. Allmand:** We are led to believe by people who follow the Catholic philosophy of life that a foetus is a human life. Is a spontaneously aborted foetus baptized or given the last rites of the church?

**Rev. L. St. Arnaud:** It is baptized.

**Mr. Allmand:** Are all foetuses of miscarriages baptized or given the last rites?

**Rev. L. St. Arnaud:** Yes, they are, unless the medical doctor proves that there is not the slightest hope of life. As long as this is not said openly by the doctor we baptize the foetus.

**Mr. Allmand:** And they are given a burial.

**Rev. L. St. Arnaud:** Yes.

**Mr. Allmand:** A lot of people have written to me and said that foetuses are thrown in garbage cans.

**Mr. Eric Brown:** Not in my hospital.

**Mr. Allmand:** You say that in Catholic hospitals a foetus from a spontaneous abortion is not thrown in the garbage can?

**Mr. E. Brown:** This is against the moral code.

**Mr. Allmand:** I just want to get this on the record.

**Rev. L. St. Arnaud:** I think you realize that we are unable to speak on behalf of all Catholic hospitals, but they all know that it definitely is against their moral code. In other words, it is never permitted by the code.

**Mr. Allmand:** And you baptize them and bury them.

**Rev. L. St. Arnaud:** Yes.

**Mr. Allmand:** I want to revert to the questions asked by Dr. Rynard and others regarding Article 16. Your Articles seem to be very legalistic and seem to be based on philosophical distinctions. Would there ever be a situation in a Catholic hospital where the mother's life was seriously endangered and she would be allowed to die rather than be aborted? I know we can make these distinctions between direct abortion and indirect abortion but in a Catholic hospital today, 1968, would a situation arise where the mother's life was so seriously endangered that only an abortion could save her but such an abortion would not take place?

**The Chairman:** By direct abortion, Mr. Allmand?

**Mr. Allmand:** I do not want to use that term because I find it a philosophical and

legalistic distinction. If a life is seriously endangered and could be saved by an abortion would or would not that abortion take place?

**Mr. Dehler:** I just want to understand your question. I will not use the words "direct" or "indirect" but I want to understand your question. You are asking if a situation arose where an abortion would result in saving a woman's life, would she be aborted, it not being a question of surgical procedures.

**Mr. Allmand:** Not in itself.

**Mr. Dehler:** I mean surgical procedures to get at some disease. Do you mean if the surgical procedure is to abort because that would save the life of the mother?

**Mr. Allmand:** That is right. Would a situation like that arise?

**Mr. Dehler:** I do not know, medically, if it would arise. First, is it conceivable that it does arise medically? I suppose the answer is yes because I have heard of instances. Second, I think the question would be: Would it be permitted in a Catholic hospital? Perhaps a doctor might do it in a Catholic hospital but he would be doing it contrary to the code of the hospital. So if you are asking if it would be permitted in a Catholic hospital according to the code, I would say no.

**Mr. Rynard:** I have a supplementary. Could it be done under the guise or under the solemn belief that you might be saving the foetus and, if so, how are you going to reconcile this?

• 1205

**Rev. L. St. Arnaud:** I would think this is a normal moral problem. It is not specific to an abortion case. In any case, where two conflicting issues are at stake I think that normally any person who believes in moral standards, whatever they may be, has to decide which risk is going to be taken. In actual fact, the only thing we want to stress is that we are not approving of any direct killing of the foetus as such. I have consulted with a number of our own psychiatrists as well as other psychiatrists and obstetricians and they told me that they see very little difficulty in this. I think that the brief presented by Dr. Lefebvre and Dr. Walters gives you the answers to all your medical questions. In any event, we operate according to our

hospital code. Would you agree with this, Mr. Brown?

**Mr. E. Brown:** Yes.

**Mr. Allmand:** I understand that some Catholic hospitals have therapeutic abortion committees now. There are some in my own city of Montreal. Could a Catholic hospital belong to your Association and have a therapeutic abortion committee?

**Rev. L. St. Arnaud:** There again it is a question of semantics. You can use the words "therapeutic abortion committee" but what does it really mean? You would have to go into a particular hospital, investigate and ask them what they really do mean to convey by these words and whether or not they permit something that is against their code. What would you say, Father?

**Mr. Allmand:** Father Mole was shaking his head there.

**Rev. J. Mole:** We are simply referring to the fact that the term "therapeutic abortion" is a euphemism. Abortion is a death-dealing procedure and therapy is a life-giving procedure, so obviously it is a euphemism. Of course it can be applied to an indirect abortion. I am not making a serious issue of the terminology because if an indirect abortion is permitted then you can call it a therapeutic abortion. You have to use some term. But we should recognize that it is actually a euphemism. It is a difficult thing to define in words.

**Mr. Allmand:** Then would a case where an indirect abortion is indicated have to be referred to a therapeutic abortion committee in a Catholic hospital?

**Rev. M. Dussault:** Well any surgical procedure that takes place in a hospital first of all, has to be approved by a committee. The medical directive on abortions issued by the hospital where I was chaplain previous to my appointment as executive director of this association was that every doctor or surgeon who had to perform an operation had to state what operation was going on, and if it was a therapeutic abortion in the sense that there was a pathological reason for doing it, it was accepted. But the pathological reason had to be clearly understood by the committee.

**Mr. Allmand:** Finally, you recommend a royal commission, and Mr. Dehler recommended things that the royal commission should do and the questions it should answer.

If we cannot have a royal commission at this stage would you be satisfied to have this Committee try to answer some of the questions that you have recommended that a royal commission should answer?

I was particularly impressed by the two questions that Mr. Dehler raised. He asked whether revising the abortion laws would, in fact, correct the situation. You then said that if it was really shown that it would then we might have to choose between the lesser of two evils. You implied that if it were shown that it would decrease illegal abortions you might be willing to accept something.

**Mr. Dehler:** You mean if this were the only means of doing it, or if you came up with alternative solutions?

I do not see how it would be proper to endorse this radical measure on abortion as a principle by which society can solve the problem. In fact, one could come up with the answers to these questions and say: Yes; in fact, it will decrease the number of illegal abortions; Yes; in fact, it is the only way to do so. By decreasing the number of illegal abortions you would in effect, be decreasing the number of deaths, and it would be introduced as the only way actually to do that. But those questions would have to be answered.

You say it may be too late for a royal commission. I do not really see, at this stage, how this Committee can answer the questions, although it could do so, if it had the facts before it. It would be a difficult task for the Committee.

**Mr. Chatterton:** We did it three weeks ago.

• 1210

**Rev. J. Mole:** If I may add to Mr. Dehler's answer, we submit in our brief that the work of this committee would be very valuable for a royal commission—I would even say invaluable. You have posed all the questions and many aspects of all of these questions. This would be invaluable in helping a royal commission to determine its terms of reference.

**Mrs. MacInnis (Vancouver-Kingsway):** I would like to start with the last part of your brief, where you say:

A profound study should be made of all unsolved problems that militate against the possibility of all citizens enjoying their rights to conjugal and parental hap-

piness in a normal home environment. Concrete measures should be taken to improve family housing, family counselling clinics, appropriate sex education, definition of the juridical status of the unwed mother so that she and her child can be assured of adequate assistance, and other similar measures.

I am happy to say that I believe everyone on this Committee would agree with that. However, you also make reference to your Catholic Hospital Association having the good Samaritan philosophy. I was brought up on that philosophy. It is the story of a person who had been robbed and beaten and was in very dire distress.

All these long-range measures for better housing, better sex education and better family counselling are very useful and very necessary in seeking a solution in the future, but what of the poor woman who is caught in a life-or-death situation? What can the good Samaritan do in that situation?

**Rev. J. Mole:** In the first place, we did not mean that the good Samaritan philosophy was the philosophy merely of the Catholic hospital, although I do not believe that was the sense of your question...

**Mrs. MacInnis (Vancouver-Kingsway):** You mention that it is a Catholic philosophy of life, although you may not have been referring to the hospital. You refer to it as a Catholic philosophy of life on page 1.

**Rev. J. Mole:** We talk about the Catholic philosophy of life.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes.

**Rev. J. Mole:** We simply refer to the philosophy of the good Samaritan. The good Samaritan was not a Catholic; he was not even a Jew.

**Mrs. MacInnis (Vancouver-Kingsway):** How does one apply the philosophy of the good Samaritan when dealing with a pregnant woman caught in a life-or-death situation?

**Rev. J. Mole:** We think it would be more compassionate to have the law of Canada deal with this entire problem of illegal abortion not as a symptom of, but as a social disease.

**Mrs. MacInnis (Vancouver-Kingsway):** I grant you that.

**Rev. J. Mole:** Therefore, measures should be taken to prevent such a situation as you

have mentioned occurring in the first place. If she is in a life-or-death situation you cannot take half-measures. If you consider the judgment of Solomon, he had before him two women who were in a life-or-death situation. He proposed that the child be divided between the two. In other words, the child should be killed in order to resolve the question. He showed by this that there is no middle course in a life-or-death question. You have to choose either life or death.

We think it would be more compassionate if we chose the kind of legislation that is in favour of life and which would try to exclude death in all situations.

**Mrs. MacInnis (Vancouver-Kingsway):** In the situation I have described it is a choice not between life and death but between life and life—between the life of the unborn foetus, or the unformed child, and that of the living, pregnant woman. Why do you say that the life of the unborn must be chosen above that of the living, pregnant woman in that situation?

**Rev. J. Mole:** Do we say that?

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, I believe that that has been said.

**Mr. Dehler:** May I answer that?

**Mrs. MacInnis (Vancouver-Kingsway):** I think there is a reference to it in the brief. Article 16 reads:

Direct abortion is never permitted even when the ultimate purpose is to save the life of the mother. There can be no condition of pregnancy constituting an exception to this prohibition.

I want to know the reason why, when two lives are involved, it should that of a grown up, living viable woman and not that of an unborn foetus? Why do you unhesitatingly choose the life of the unborn foetus over that of the live woman?

• 1215

**Rev. J. Mole:** We were trying to state a principle first.

**Mrs. MacInnis (Vancouver-Kingsway):** I want to understand what that principle is.

**Rev. J. Mole:** We are trying to define all the nuances and possible applications that could be made of that principle.

I admit that this code was drawn up in 1954, long before this kind of dialogue was possible between people of all faiths and philosophies. If we revise this hospital code, as we likely will, I think perhaps we can get away from what, after all, are semantic difficulties and can formulate it in such a way as to make it more palatable to people to whom the enunciation of a principle in a rather shocking way is disconcerting.

**Mrs. MacInnis (Vancouver-Kingsway):** It is not the semantic difficulties that bother me but the practical difficulty posed by your preference for the life of the unborn foetus which you always say is superior and should be saved rather than the life of the living woman.

**Rev. J. Mole:** That is not involved at all. We are simply saying that we do not wish directly to kill a human foetus.

**Mrs. MacInnis (Vancouver-Kingsway):** Well, I am sorry about that.

**Rev. J. Mole:** That is isolated from the question of the mother.

**Mrs. MacInnis (Vancouver-Kingsway):** Unfortunately, they cannot be isolated because. . .

**Rev. J. Mole:** If the actual concrete situation involves the choice of another human being, of course, we have to look at that problem in all its aspects.

**Mrs. MacInnis (Vancouver-Kingsway):** All I can say is that where you say, in Article 16:

Direct abortion is never permitted, even when the ultimate purpose is to save the life of the mother.

to me that indicates perfectly clearly that when a choice is inevitable the life of the unborn foetus must always be given first priority. I am not schooled in theological dogma, and I will just leave it at that.

I would like to ask another question. In connection with the attitude that you have expressed this morning, I would like to lead up to something else. In our Committee hearings on birth control and family planning we had before us the Canadian Catholic Conference and they made a submission to us at that time. On page 4 of the brief they said this:

The Church recognizes that her role and competence. . .

That is, the Catholic Church.

27570-2

**Rev. J. Mole:** Are you referring to a brief?

**Mrs. MacInnis (Vancouver-Kingsway):** Yes.

**Rev. J. Mole:** What brief?

**Mrs. MacInnis (Vancouver-Kingsway):** I am referring to the brief that was presented by the Canadian Catholic Conference to the House of Commons Standing Committee on Health and Welfare when we met in our sessions in 1966.

**Rev. J. Mole:** Did the Canadian Catholic Conference submit a brief to this Committee?

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, they did.

**An hon. Member:** They submitted a brief on birth control.

• 1220

**Mrs. MacInnis (Vancouver-Kingsway):** That is right; on birth control. I will go back again:

The Church recognizes that her role and competence are not to be confused with the role and competence of the political community. Thus "the faithful will be able to make a clear distinction between what a Christian conscience leads them to do in their own name as citizens, whether as individuals or in association, and what they do in the name of the Church and in union with her shepherds".

Then at the end of their brief they say:

Provided, then, that safeguards against irresponsible sales and advertising are built into the law and that protection of personal freedom is ensured, we do not conceive it as our duty to oppose appropriate changes in Article 150 of the Criminal Code.

That is the part dealing with birth control.

Indeed, we could easily envisage an active co-operation and even leadership on the part of lay Catholics to change a law which under present conditions they might well judge to be harmful to public order and common good.

Now the general tenor of this brief was. . .

**Mr. Forrestall:** On a point of order. I am getting a little disturbed about what seems to be developing, Mr. Chairman. Unless Mrs. MacInnis has a very valid point to make I would take objection to what is. . .

**Mrs. MacInnis (Vancouver-Kingsway):** I have, I was getting to the point.

**Mr. Forrestall:** I am drawing inferences that may be my own, but I am not very pleased with them.

**The Chairman:** As Father St. Arnaud said, you are not here to talk theology; you are here to talk to the Canadian Hospital Association. You are referring to a brief that these people may never have seen.

**Mrs. MacInnis (Vancouver-Kingsway):** All right, then, I will not refer to it, but I will ask my question.

**Mr. Dehler:** Maybe we can hear the question...

**Mrs. MacInnis (Vancouver-Kingsway):** All right. I will ask my question and then you can decide whether I am out of order. I just want you to know that my question is based on fact. The Catholic Church felt—and they did; you do not need to base it on this, you can base it on your own knowledge—that there was a large number of Canadian people whose consciences did permit them to have a law which would make possible the dissemination of birth control information and the sale of contraceptive devices.

I felt it was a very great step forward by the Roman Catholic Church to say, we do not believe in this for ourselves but we do recognize that we are living in a pluralistic society and that there are large numbers of Canadians who do believe it and whose consciences will permit it.

Now, I would like to ask you this question. If the Roman Catholic Church took that position in the matter of birth control, do you believe that it would be possible for you, as a Catholic Hospital Association, to take the same attitude concerning abortion? There are a great many Canadians who do believe in the modernization of the abortion laws, at least to the point where to the life of the mother we add the health of the mother as in the proposed Criminal Code amendment. Even though the whole world knows that you do not approve of it—and there is no dispute on that point—is it not logical for you to say, as you did in this matter, we will not stand in the way of people who do believe in getting the kind of legislation that will result in the modernization of the abortion laws?

**Rev. J. Mole:** In the first place, it is not a question of what the people of Canada

believe; it is what they understand. We do not believe that they understand these questions fully enough to take such a serious decision on the matter.

In the second place, we are not proposing our aversion to abortion on the grounds of our Catholic belief. We are proposing our aversion to abortion as something that will diminish the respect for human life, and we believe this is a fundamental postulate of civil society. We have said in our addenda:

While we respect the opinions of those who do not share our beliefs... we would point out that the State is the guardian of those laws of morality that are commonly accepted by citizens generally as the foundation on which our society...

Our civil society...

is built. Among these is the law of respect for human life. The sanctioning of any practice which could weaken this respect will also weaken the foundations of our society.

The question of abortion is not just a question of the principles of Catholic society; it is a question of the principles of our civil society and we want to make our voice heard not only as Catholics, but as citizens.

**Mrs. MacInnis (Vancouver-Kingsway):** We have had the Presbyterians, the Anglicans and the United Church, and none of them shares that belief. They feel they are just as moral and that they are just as keen on keeping intact the foundations of our small society. So are you not saying that you consider your church should lay down the foundations of moral society for all Canadians, whether members or not?

• 1225

**Rev. J. Mole:** We do not want to lay down the foundations for all society.

**Mr. Forrestall:** Mr. Chairman, on a point of order, and I think I must raise it, we are not talking about the moral theology of the Roman Catholic Church.

**Mrs. MacInnis (Vancouver-Kingsway):** We have been up to now.

**Mr. Forrestall:** We are talking about something entirely different, and if this is a course in modern theology then I will excuse myself.

**The Chairman:** I think the question would have been more appropriate at the time of the hearings of the Canadian Catholic Conference.

**Mrs. MacInnis (Vancouver-Kingsway):** All right. Can I go on with one more question now?

**The Chairman:** This will be your last one.

**Mrs. MacInnis (Vancouver-Kingsway):** All right. A letter was given to us this morning which I think came through the agency of our Committee.

**The Chairman:** That has nothing to do with the people before us today.

**Mrs. MacInnis (Vancouver-Kingsway):** Is it not proper to quote a letter from somebody else?

**Mr. Forrestall:** You would not read Mr. O'Brien's letter last time.

**Mrs. MacInnis (Vancouver-Kingsway):** We did not want it read by the clerk, but by me. I would like to quote this.

**Mr. Forrestall:** So long as it has to do with abortion.

**Mrs. MacInnis (Vancouver-Kingsway):** It has; it is from a physician by the name of Dr. James A. Collyer, at the Family Medical Centre at St. Joseph's hospital in London. I am going to read just one paragraph:

As a family physician . . .

**Mr. Rock:** On a point of order. I have many letters like that in my files and I would like to know whether I have permission to bring them the next time and read them all; also, all those letters to the editor that we clip out.

**Some hon. Members:** Agreed.

**Mr. Rock:** I mean, it is one thing or the other.

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, I think it is . . .

**The Chairman:** Can you frame your question without reference to the letter?

**Mrs. MacInnis (Vancouver-Kingsway):** No, Mr. Chairman. I think it is unwarrantable not to permit me to quote one paragraph from a letter that has come in and which is perfectly reputable. Why should I not quote it? We have had other things quoted; we have had *Time* and *Life* and other people's letters

quoted here. Why are you trying to muzzle me?

**Mr. Rock:** I am not trying to muzzle you. I just want to know whether we are all going to be muzzled later on when we want to have the same opportunity.

**Mrs. MacInnis (Vancouver-Kingsway):** Well, I will not be muzzling you if you want to quote a paragraph from a letter. I think this is a perfectly sensible thing to do.

**Mr. Forrestall:** I agree with Mrs. MacInnis. I think we should let her go on.

**Mrs. MacInnis (Vancouver-Kingsway):**

As a family physician it has become apparent to me that the quality of family life and the upbringing of children has a marked effect on the individual's later life, behaviour, health and illness. It is now a time in our evolution in which the quality of life and health is becoming of increasing importance, and no longer is just the maintenance of life a sufficient task for the physician to assume. Having created part of the problems now confronting mankind in the way of overpopulation, by means of some truly remarkable ways of maintaining life and curing illness, it seems to me that the physician can no longer evade their responsibility of helping to adjust to our new circumstances.

And then he goes on to say that therefore he believes:

. . .that we must now recognize and accept that socio-economic reasons are an adequate and sufficient reason to recommend abortion.

Now, I would just like to ask your opinion of that family doctor's reasoning that we are moving along to where conditions have changed and where we must change our thinking.

• 1230

**Mr. Dehler:** Mr. Chairman, I think the answer . . .

**The Chairman:** I think the question has already been answered. Go ahead, Mr. Dehler.

**Mr. Dehler:** Your question is, will I comment on this briefly?

**Mrs. MacInnis (Vancouver-Kingsway):** Yes.

**Mr. Dehler:** I would suggest to you very simply that what this family physician is proposing is not something that is being proposed as a medical opinion but merely as one man's opinion.

He is proposing a value judgment on whether social or economic conditions should justify abortion in a civilized society. This has nothing to do with modern medical findings. He is offering his opinion as a human being, and as a doctor who thinks that this is a proper ground for abortion, and I think that we simply do not agree.

**Mrs. MacInnis (Vancouver-Kingsway):** In other words, there are doctors and doctors.

**Mr. Dehler:** Indeed there are. There are also lawyers and lawyers and members of Parliament and members of Parliament.

**Mrs. MacInnis (Vancouver-Kingsway):** Thank you, Mr. Chairman.

[Translation]

**Mr. Isabelle:** I would like to ask a few questions to Father Mole who is accustomed to press conferences.

Do you understand French, Father Mole? When you made your declaration, had you received the approval of your association, that is to say the Association of Catholic hospitals, or did you do it of your own initiative?

**Rev. J. Mole:** Are you asking whether I had time to consult all the three hundred Catholic hospitals in Canada before making that declaration?

**Mr. Isabelle:** Yes.

**Rev. J. Mole:** I did not have time to consult anybody, neither of course the three hundred directors of our Catholic hospitals, nor the executive committee of the association. So I acted in virtue of my ordination as a priest and spoke not in the name of the Catholic hospitals but in the name of the Church. What I have said has not been repudiated, but somewhat confirmed in a way, by the fact that the bishops rescinded their decision to present a brief to Parliament, and by the Catholic press in general.

**Mr. Isabelle:** What is the precise function of your association?

**Rev. M. Dussault:** On the national level, our association is concerned with the promoting of the ideals of the hospitals from a Catholic point of view.

**Mr. Isabelle:** That is precise.

**Rev. M. Dussault:** We assume responsibility, as a national association, to deal with such questions as we are presently studying and concerning which we are now presenting a brief. It is the responsibility of the national association.

**Mr. Isabelle:** It is then for this reason that you have established a code of ethics which has been accepted by all hospitals. And now would you tell me who must in all hospitals apply the principles within this code of ethics? Is it the medical director, the mother superior or the director?

**Rev. M. Dussault:** The responsibility in a hospital is foremost in the concept of the administration of the hospital. The administrative board delegates its authority to the director for the application of the regulations upon which precisely rests the administration of the hospital. Therefore, from a practical point of view, the director of the hospital is responsible for the application of the moral code.

• 1235

**Mr. Isabelle:** Then it is the director who is responsible for the application of the moral code in a given hospital. But does it not require someone who is sufficiently educated to make distinctions as when it is a case of a direct abortion or an indirect abortion.

**Rev. M. Dussault:** In a hospital?

**Mr. Isabelle:** In a hospital.

**Rev. M. Dussault:** In a hospital there is a medical director, then the director of the hospital...

**Mr. Isabelle:** In the province of Quebec.

**Rev. M. Dussault:** ...does not have to enter into all domains of the hospital. When a question of medical ethics arises, it is the director and the chaplain of the hospital who must judge the case and arrive at a decision.

**Mr. Isabelle:** But in the case of an indirect abortion, each hospital can make its own regulations of moral order provided they conform to the moral code of ethics which you have submitted to all hospitals. In other words each hospital can make its own laws concerning this subject. I will give you an example: there are hospitals who seek the advice of three advisers before practicing an abortion.

**Rev. M. Dussault:** Are these direct or indirect abortions?

**Mr. Isabelle:** So that we will understand ourselves, we shall say it is an indirect abortion. The distinction between a direct and an indirect abortion, in my opinion leads to confusion. Anyway, so that we understand each other, for the requirements of the conversation, let us say it is an indirect abortion. Certain hospitals seek the advice of three or four advisers in certain cases. Others do not consult anyone especially when it concerns a caesarian.

This is then to say that the question is often left to the free interpretation of each of the hospitals according to the will of its director.

**Rev. M. Dussault:** From that point of view, each hospital has its own moral conscience to judge the way in which to interpret the moral code. If a hospital deals more frequently with these cases or deals with more serious cases, usually it provides itself with the organisation necessary for the taking of a good decision.

**Mr. Isabelle:** In my opinion, to use hospitals to promote a religious movement, be it Catholic or other, is a rather funny way of doing things. In fact, quite often, in Catholic hospitals, in case of emergency, we have to treat as many Protestants, Anglicans or Presbyterians as Catholics, and without speaking of undenominationalisation, I believe that hospitals should be nothing but hospitals, across Canada, without any religious affiliation.

In any case, I have read your brief, I have appreciated it but I have not completely understood it. I should like now to add something. Seeing as you appear before us in the name of your association, I would like to tell you that the January 1968 edition of your publication contains some errors when you speak of the law on abortion. You speak, and I tell you this in all honesty, you speak of the Canadian Catholic Conference. You have made much of this (we can read this in four of five places in the edition which has just been released); that the Catholic bishops had not been consulted. In my opinion, we should rectify this point.

The bishops, the Council, the Catholic Conference, had been notified on July 7. As for us, only after having made a telephone call on September 28th were we told that the

bishops would send a brief but that they would never appear before us. Moreover, they asked us to present their brief as late as possible during the hearing of witnesses. Did they wish to wait until everything was done before taking a stand? I do not know but I want to see the error corrected; I should like, that in your next month's bulletin, or in that which will be published in two or three months, the correction be made. It is a monumental falsehood and I believe a sensation is being made of that thing.

**Rev. J. Mole:** Would it be, by any chance, the role of this committee to get involved in the editorial policy of our publication?

**Mr. Isabelle:** No, but you have committed a falsehood when you accused our committee. I believe that it is our duty to tell you if there are any falsehoods.

**Rev. J. Mole:** According to you, who is responsible for this falsehood?

**Mr. Isabelle:** I do not know, but it is written.

**Rev. J. Mole:** According to you, which sentence is false?

[English]

**The Chairman:** I take it that Dr. Isabelle is objecting to part of your editorial as being inaccurate.

**Mr. Isabelle:** Yes, it is inaccurate when you speak about the Canadian Catholic Conference. You mention that the bishops were never invited to present their brief.

**Rev. J. Mole:** All I can say, Mr. Chairman, is that if Mr. Isabelle will kindly submit a letter to this effect to the editor of our publication we will be glad to take it into consideration.

**Mr. Isabelle:** I just mention it because you are appearing before us.

[Translation]

In other words, you are neither for nor against an alteration of the actual criminal code. You do not want any abortion at all?

**Rev. J. Mole:** I should like the text of the law to be clarified. That is written in our brief.

**Mr. Isabelle:** You want to clarify the text...

**Mr. Knowles:** Mr. Chairman, I hope it does not sound discourteous if at first I admit some

surprise at a hospital association appearing before us without a single doctor in attendance. It is not an anti-clerical remark. After all, Mr. MacDonald and I have a certain status that perhaps is well known. However, it seems to me when a hospital association appears before us that it should include at least one medical person. I say that for a couple of reasons. Firstly, it seems to me that if there has been any consensus at all among the delegations that have appeared before us on this question, it has been to the effect that the question of whether there is to be an abortion is very largely a medical question. Perhaps somebody can answer that along with another question.

I am also puzzled in this respect. One of the witnesses who appeared a few meetings ago and whose name escapes me at the moment was a very articulate doctor, a Roman Catholic, and I think he was either from London or Hamilton.

**The Chairman:** That would be Dr. Quigley.

● 1240

**Mr. Knowles:** Yes. I asked him specifically about the practices in the hospital, and I said, "Does your hospital permit abortions, and so on?" He replied very clearly, "Hospitals do not provide medical services, hospitals do not provide treatments, this is done by the medical people." I had to accept that; it seemed to make common sense. However, how do you justify that position—the authority of the medical people so far as medical practises are concerned—with a brief which seems to imply that some non-medical group lays down the law as to what the doctors and medical people shall do in the hospitals? Perhaps I am close to Dr. Isabelle's remarks of a few minutes ago. I do not want to get into that family row, but I am concerned. Is this not taking away from the rather well-recognized fact that this is a medical question and that medical people should have quite a bit to say about it?

**The Chairman:** Mr. Brown.

**Mr. E. Brown (Administrator of Hotel Dieu Hospital, Kingston):** Mr. Chairman, I would like to answer that question. This is a typical answer from a doctor. I can understand how he could make such an answer, but the legal authority in a hospital is vested in the board of directors of the hospital. The board of

directors delegates to the medical staff the medical care of the patients, but it never—as you can understand in delegating—gets rid of the legal responsibility. Every doctor who performs any function in a hospital is responsible to the board of directors. The administrator's position is that of chief executive officer of the board of directors and the responsibility for the operation of the hospital is also delegated to him.

In every hospital I know of the administrator meets with the medical staff, and if there is a question such as we are discussing today, the administrator will ask for the doctor's reasons why this might be done or must be done, and he would have the final say on whether it will be allowed to be done in the hospital or not. It is very difficult for both lay people and doctors to grasp the legal steps that are involved, and many doctors think...

**Mr. Cowan:** May I interrupt, sir? Speaking as a chairman of a hospital board, it seems very hard for doctors to accept that fact.

**Mr. Brown:** That is very true, sir, and we are continually engaged in educating doctors.

**Mr. Rynard:** It is a hard road. I would like to ask if, in effect, you carry this out? For instance, Mr. Brown, I am acquainted with your Hotel Dieu Hospital. I knew Dr. Gibson, who was an exceptionally fine man there for many years. However, are you telling us that if the administrator believes an operation should not be performed, and the medical staff believes that it should, that you will override him or that it is even possible for you to override him?

**Mr. Knowles:** That is the question I was coming to.

**Mr. Brown:** In fact, I have the legal responsibility and I can override him. As you can all understand, in order to exist in a hospital community you are not apt to override the medical staff too frequently. What I would normally do in such an instance. . .

**Mr. Brand:** Be honest with us; has it ever been done?

**Mr. Brown:** Yes, I have done it once.

**Mr. Rynard:** And you are still the administrator?

**Mr. Brown:** Yes.

**Mr. Rynard:** You must be joking.

**Mr. Brown:** As you might suspect, I would not stand alone in that sort of thing. I would discuss it with the senior doctor or the chief of staff as he would be called in some hospitals. We also have a medical advisory committee and I would discuss with the chairman of that committee a procedure that was either being done or was about to be done, and I would say "I cannot allow this in the hospital, I am going to have to do something about it. It is up to the doctors to police other doctors. Will you take care of it?" In every case he would take care of it. He does not want it to get out of their hands or to make a test case of who is actually running the hospital.

**Mr. Rynard:** In other words, it is because of this that there is a consultation with the medical staff, and the medical staff finally agrees with you.

**Mr. Brown:** Yes, because I bring to their attention certain regulations and in this case it might be a moral ethic of the hospital.

**Mr. Rynard:** I merely wanted to bring up this point. However, suppose the chief of staff did not agree with you?

• 1245

**Mr. Brown:** If he did not agree, then it would have to go to the board of directors for a final decision. I would ask them to hold the procedure until I could get the opinion of the board on it, because it would then be beyond my authority. In one case we actually stopped a doctor from performing an operation. We simply did not feel he was competent to do it. The operating room supervisor telephoned me and said, "Dr. So-and-so wants to do such-and-such. I do not think he is qualified to do it. Will you deal with it?" I said, "You stop him from doing it until I get it cleared".

**Mr. Knowles:** This is on the basis of a judgment of the man's qualifications.

**Mr. Brown:** That is true.

**Mr. Knowles:** And not on the basis of morals or ethics.

**Mr. Brown:** This is not a moral or ethic basis.

**Mr. Knowles:** Have there been any cases in your hospital where a medical person has indicated the desirability or the necessity for an abortion and where the administration has appealed it?

**Mr. Brown:** No, this has actually not come up in our hospital, I think primarily for the reason that most of the doctors in the community understand the position that we take on this matter. If there is a patient who requires this type of procedure they are not admitted to our hospital.

**Mr. Knowles:** What happens in the case of a patient in your hospital where a doctor comes to the decision that an abortion is necessary?

**Mr. Brown:** If it contravenes our ethics, then he cannot do it. What he will then have to do is transfer the patient to a hospital where he can do it. This is done.

**Mr. Knowles:** I gather that this is the sort of thing we have heard from representatives of other Roman Catholic hospitals who have attended before us. In fact, I think the doctor I referred to said that he not only would prefer to operate where there were indications in favour of an abortion, but even where there was doubt.

**Mr. Brown:** I think, as you could well expect, the doctor is quite safe. If he is going to remain on the attending staff of a Roman Catholic hospital then, he must observe the Roman Catholic moral ethics code. I might add that my own hospital is a teaching hospital, so we have what is called an attending staff composed of teaching doctors and we actually only have one Roman Catholic doctor in the whole group, the rest are Protestant.

**Mr. Knowles:** But they have to observe...

**Mr. Brown:** When they accept an appointment to the hospital staff they agree to observe the moral ethics of the hospital.

**Mr. Knowles:** Have there been any cases in your hospital where a woman patient has been moved to another hospital because an abortion was called for?

**Mr. Brown:** Not to my knowledge, Mr. Knowles. I have been the administrator now for 16 months—I was the assistant administrator before that—and I have no knowledge of a patient actually being moved.

**Mr. Knowles:** Operations which have had the affect of aborting have taken place, but they have been within the terms of your code?

**Mr. Brown:** That is correct.

**Mr. Knowles:** I could ask questions or make further comments on that. I simply want to say that this is in line with the evidence we have had three or four times from Catholic doctors and Catholic hospitals, that you take a hard and fast line, and yet it is not really hard and fast.

I have one further question. When you ask for a royal commission are you seriously asking for anything more than a delay in this whole business? What is the difference between the kinds of human beings who will be appointed to a royal commission and the human beings that make up this Committee, apart from the fact that all they do is draw their pay and expenses and report back to the government? We are responsible to the people of this country. What is really better about a royal commission, except that from your viewpoint it delays action?

**Rev. J. Mole:** I think we are seriously asking for a royal commission because it will delay a decision, and the reason we want the decision to be delayed is because we feel the people of Canada are not ready to take such a grave decision.

You must remember that abortion has become an established practice principally in communist countries. I do not know what the philosophy is in Japan and Scandinavia about the superiority of the state over the rights of the individual. I presume that Scandinavian socialism is of a type that appears to lean more on the priority of the state over the individual, but undoubtedly you are a better authority on that than I am.

**Mr. Knowles:** Some doctors think Canada is communist.

• 1250

**Rev. J. Mole:** As we say in our presentation, of the two kinds of advocacy of abortion the more extremist groups are the ones that imply if you accept the practice you have to accept the philosophy that goes with it. This is the kind of advocacy of abortion that interests us most. We would like to discuss the question on their terms, rather than on the terms of those who merely say with resignation that abortion is a necessary evil and we might as well have it done in hospitals as outside. I think the reason we would like to see a royal commission appointed is because—with the abortion issue which is being posed in Canada—this is the first time we

have come in collision with a philosophy of life—and I think the majority of people in Canada have—and a philosophy with which the practice of abortion is not consonant. Therefore, the people of Canada must be put in possession of all the pertinent facts and aspects of the question before they take a decision that is going to change the public philosophy of our country. We need at least two years to draw up a new constitution for Canada, a constitution which is supposed to contain a declaration of human rights and a declaration of human rights which presumably will be consonant with the universal declaration of human rights. We would like the people of Canada to look fully at the implications of the principle of inviolability of innocent life and to see if this practice is really consonant with that before they make a decision. We need this delay in order to give us time to make a far more serious study of all the implications of this matter than this Committee is capable of doing.

**Mr. Knowles:** You said the reason you wanted a royal commission is for purposes of delay. You give your reasons for that delay, and may I say that delay can also be effective so far as this Committee is concerned. We are not going to report until we have heard all the people who want to be heard, and with this session of Parliament approaching some kind of a prorogation it could well be that this Committee will not finish its work during this session. It could well be that Mr. Trudeau's bill may get pushed to the sidelines, or something. My point is that further appearances before this Committee to argue your philosophy until we are all blue in the face are open to you. Why insult us by saying that we are not as intelligent as a royal commission?

**Rev. J. Mole:** I do not want my remarks to appear derogatory to you at all.

**Mr. Knowles:** We are not nearly as expensive.

**Rev. J. Mole:** Do you think the people of Great Britain were insulted by the fact that half a million signatures were collected for a petition to take the matter out of the hands of Parliament, even when the bill was very advanced in the British Parliamentary machinery, in order to delay the question? Members of Parliament organized that petition, and I do not think Mrs. Jill Knight was a

Catholic member of Parliament. They also felt that the people of Great Britain were not ready for the question. We deplore the immoderate haste with which this question is being precipitated on the people of Canada.

**Mr. Knowles:** I have no further questions, but I disagree with that observation.

**Mr. Dehler:** May I add that the interim report of this Committee states:

In view of the lack of factual evidence with regard to abortion in other countries, and in view of the importance of the assessment of such evidence, the Committee should make studies relevant to other countries.

I heartily concur with this and I am sure the Hospital Association of Canada does as well. However, I think if this study of what is going on in other countries is to be done in such depth that it requires time, it should be done by a body whose full attention is directed to this very vexing problem. Further, I believe it would be fair to say that the Committee's interim report could have read, "In view of the lack of factual evidence with regard to abortion in this country", and not "other countries".

**Mr. Brand:** That is obviously what was meant.

**Mr. Dehler:** No, it states, "in other countries." It does not say, "in this and other countries".

**Mr. Brand:** You are speaking as a lawyer. This was not written from the standpoint of lawyers but as a report. What we said in effect was due to the "lack of evidence" before this Committee.

• 1255

**Mr. Dehler:** I am glad that is the sense of it and because of that it is all the more reason there should be a body whose sole concern and purpose is to study this matter in depth with the time and seriousness required. We do not suggest that you were not dealing with it seriously, but you are very busy men. This other body will still have to report back to Parliament and they will have to come up with findings of fact. You have heard opinions of people. You can sit, as you say, "until you are blue in the face" and everybody will come here and parade their opinions about this issue. I think the issue is too important to

simply leave it to public opinion. I think that Parliament not only follows public opinion and answers to the public for elections, but it also gives direction to public opinion just as the law educates people. Therefore a matter of such import involves, for example, the Bill of Rights, it involves the entrenched Bill of Rights which is now being studied and it involves considerations, for example, of the husband's consent. A recent decision was given in California under this law where a husband opposed an abortion which was going to be performed on his wife. He took it to the courts and the courts simply discarded the consideration of the husband's consent. If I recall correctly, Mr. Wahn's bill includes consideration of the consent of the husband.

Moreover, in the civil law, as opposed to the criminal law, there is a presumption of life for unborn children. By making this non-criminal, and therefore saying that for the purposes of the Criminal Code foetal life is not human life, you are introducing into Canada at the level of law a radical departure from Anglo-American tradition in the civil courts. A tradition was recognized in 1933 when the Supreme Court of Canada decreed that a child injured while in womb had a successful right of action against the party responsible for the injury after that child came to birth. You cannot escape the fact that in the civil law of Anglo-American tradition there is a presumption of life which is not recognized in the Criminal Code. Doctors seem to think that by not making it a criminal offence they will be freed from responsibilities. I should think in such a case one would be well advised to bring civil action against the doctor. It does not confer a right to perform an abortion, it merely does not make it a criminal act, and that is a different thing. If it is not made a criminal act, we are departing from what we believe is right.

**Mr. Knowles:** You are free to bring all these arguments before this Committee at the next session. This is your second appearance here and you can come again.

**Mr. Dehler:** That is only an argument. Is this Committee going to be able to come out of committee with a report to the House to the effect that according to the best methods of study available we now find the facts as to the abortion situation in this country to be as follows: one, two, three, four, five, six, seven, eight, nine, ten?

**Mr. Brand:** This is pure conjecture.

**Mr. Dehler:** If you do not find the facts I do not think you can act with haste in recommending changes which are contrary to the whole tradition of thinking and of the law just because public opinion favours a change.

**Mr. Brand:** You have read our interim report, sir, and in it I think we stated quite plainly that we felt a much wider study was necessary. Why are you now suggesting that we are going to act with immoderate haste in bringing in a report which will be contrary to the interim report? This is not reasonable.

**Mr. Dehler:** I will demonstrate our reasoning in this way. In view of the interpretation that has been placed on your interim report, I find the reasoning rather strange where there is an admission—an admission that even goes further now—that you do not have sufficient factual evidence about this and other countries and that instead of recommending to the government that it delete from its proposed bill the reference to widening the abortion laws... the interim report stated:

...on the understanding that the Government may wish to introduce some legislative changes... without waiting for a full and final report.

...this Committee recommended the change while at the same time admitting it does not have factual evidence.

**The Chairman:** May I add one point in correction, please? The Committee's report preceded the Minister's bill. The Committee could not recommend that certain clauses be deleted from the bill because it did not exist and we had no knowledge of it.

**Mr. Dehler:** That is the wording. The intent should have been to say to the government, "We, as the Committee which has been studying this matter, do not as yet have the factual knowledge required for the recommendations, and if you are going to introduce something we ask that it not be introduced until we make our final report." I am only speaking about a judicial inquiry. It is that serious. It would assist the Committee, in fact, and you could come up with your findings.

● 1300

**Mr. Brand:** Mr. Chairman, at the outset and before Mr. Dehler gets to the "night of the long knives", may I say that for 17 years I have been practising as a physician primarily within the confines of Catholic hospitals, for whom, I might add, I have the highest regard

and the greatest affection, and at no time while working within the Catholic code have I as a physician ever had any difficulty at all or run into anything which has caused me any problems. I thank them very much for this. I think they run some very magnificent hospitals throughout the country. Having said that, I now wish to get back to this matter of your having more faith in royal commissions than in us as a Committee. I take it you wholeheartedly accept the recommendations of the Carter Commission, for example, because it was a royal commission. Is that correct?

The analogy I am trying to make, of course, is that even the reports of royal commissions must come before Parliament. It is up to Parliament to decide, which is the very group of people here in whom you have so little faith. Oh ye of little faith.

**The Chairman:** Dr. Brand, could you speak into the microphone?

**Mr. Brand:** The fact is you have little faith in the members of this Committee, who are the very people who would have to decide on the findings of a royal commission anyway. The Hall Royal Commission, in the process of producing its report, did not sit full time as such, as has been suggested by your legal representative today. I think if you look into the matter you will find that royal commissions do not sit full time. They sit on a per diem basis and hold hearings similar to those we hold here.

In actual fact fact you have suggested that a royal commission would have more competence in many ways to make valued decisions, or whatever you want to call them, and I cannot accept this because in our interim report we stated we would like this Committee—or if the government in its wisdom decided on another type of commission or inquiry—to have sufficient evidence or numbers of people seconded to us, and sufficient funds made available to us so that we could look at greater depth into the possibility of widening the abortion law. The purpose of that interim report was to clarify the law as it now stands without actually widening it.

I know we have had a lot of evidence presented to us which indicates that perhaps we have gone a little too far in the suggestion of "health" only. I wonder if your attitude towards us is not related to the indignation you felt when you saw this report, which

resulted in your sending a letter to every Catholic hospital in Canada asking them to write and oppose us in every possible way? Is this not a fact?

**Rev. J. Mole:** No.

**Mr. Brand:** I have seen one of the letters that came from the Catholic Hospital Association.

**Rev. M. Dussault:** As the executive director of the Catholic Hospital Association I was directed to instruct our hospital administrators and boards of trustees to approach their Members of Parliament to tell them of their concern and the implications such a bill would have for their hospitals. It was not a matter of politicking. It was a matter of revealing to their representatives in Ottawa their concern about such a bill. This was the essence of the letter.

**Mr. Brand:** Perhaps that was the intent, but the letter I read, Father, was considerably stronger than that, as I recall. I think you will agree that there was righteous indignation in every line. Is that not correct?

I would like to correct the impression that any gynaecological operation carried out in a hospital has been previously discussed and approved by a committee of that hospital. In most hospitals of which I have knowledge there is usually one doctor who is accredited by the board and the medical staff of the hospital as a consultant who, after consultation with the doctor concerned, decides whether or not the doctor should proceed with gynaecological operations on women of childbearing age. I think this is correct, is it not?

**Mr. Brown:** That is correct.

**Mr. Brand:** Are there at present any Catholic hospitals which have abortion committees?

**Rev. M. Dussault:** What do you mean by abortion committees?

**Mr. Brand:** Are committees consisting of members of the medical staff set up in the hospitals to decide upon the use of therapeutic abortion?

**Rev. M. Dussault:** I do not know of any committees that have been established in Catholic hospitals for this purpose. There are committees to control operations, but as far as I know they are not set up—as you suggest—to deal with this particular problem.

**Mr. Brand:** I believe evidence was given before the Committee that there was a Catholic hospital in Montreal that had an abortion committee. That is why I asked you this question. I would like to know whether or not...

**Rev. J. Mole:** Is this hospital a member of the Catholic Hospital Association?

**Mr. Brand:** I presume so, but I cannot say for sure. That is why I asked you the question.

**Rev. J. Mole:** Can you name the hospital?

**Mr. Brand:** No, I cannot. I cannot recall the name of the particular hospital. I know it is in the evidence and I am sure you can find it.

**Rev. J. Mole:** There are hospitals in Montreal which are not members of our Association.

• 1305

**Mr. MacDonald (Prince):** Are there Catholic hospitals which are not members of your Association?

**Rev. J. Mole:** Yes.

**Mr. MacDonald (Prince):** For the record, how many are there?

**Rev. M. Dussault:** There are hospitals that do not call themselves Catholic hospitals. They have a Catholic philosophy but they call themselves non-denominational.

**Mr. MacDonald (Prince):** I was thinking of hospitals whose ownership was vested in some Catholic corporation, a Catholic order or the dioceses. How many hospitals of that nature do not belong to your Association?

**Rev. M. Dussault:** The majority of those hospitals are in the Province of Quebec. I do not know the exact number, but a list was made the other day and I think there were about 15 of these hospitals that were formerly members of our Association that no longer consider themselves members of our Association. They still call themselves Catholic hospitals in so far as their philosophy is concerned, but they are not affiliated with us.

**Mr. Brand:** I would like to have article 16 of the Moral Code of the Catholic hospital clarified. I can understand the meaning of direct abortion having worked in medicine, but when you say, "Direct abortion is never permitted...to save the life of the mother", do you not mean in effect that a pregnant woman is going to die if the pregnancy con-

tinues, in keeping with the Code, that is, if abortion is not carried out? In fact what happens is that both die rather than one being saved. Is this not correct?

**Rev. L. St. Arnaud:** I suggest that in these cases the correct procedure—and I have been witness to this—is for a doctor to do all he possibly can so as to be able to say honestly that he has been fighting for both lives. Would you not agree that this is actually what happens, and that it is in line with the direction suggested by the Code?

**Mr. Brand:** No. Let us take, as an example, a woman in the first three months of pregnancy, with the foetus alive and human in the womb. The mother's condition is similar to the one presented to us a couple of days ago. She has a serious kidney disease, and is going to die because of the additional burden of carrying the child in the womb. Although it is perhaps rare, this can be, and has been, a problem. If you do not remove the child—admittedly destroying the life within the womb—then both will die. In such a situation how would you apply Article 16?

**Rev. L. St. Arnaud:** The doctor tries to work on whatever part of the body he can without directly attacking the foetus. This can be done.

**Mr. Brand:** I thought I had made it quite clear that it is the additional burden that is the straw that is breaking the camel's back, if I may so put it.

**Rev. L. St. Arnaud:** This is true; but if something else can be done, even if it is caused secondarily by this...

**Mr. Brand:** But if there is nothing else?

**Rev. L. St. Arnaud:** No; I mean in the actual handling...

**Mr. Brand:** In the actual handling of the case nothing but a therapeutic abortion can be done: Article 16 still applies?

**Rev. L. St. Arnaud:** Yes; but with the nuance, if you will allow me to say so, that if another part of the woman's body is sick then the doctor works on that, even if, as a result, he has to destroy, or so it turns out, the life of the foetus.

• 1310

**Mr. Brand:** But in the particular case I am referring to the only thing that could perhaps be lifesaving would be the actual attack on the live foetus itself. I make that specific so

that you may understand what I mean. This would be the only condition, where no kidney donor was available for a kidney transplant. Because to get a kidney you have to wait for an accident around the corner, occurring to the right type of person at the right moment, and sometimes you cannot wait. Article 16 would still apply? Is this correct?

**Rev. J. Mole:** You realize, of course, Dr. Brand, that it is absolutely impossible for anyone to draft a Code that will encompass every situation.

**Mr. Brand:** I just wonder what you believe would happen, and if an exception might be made in a case where there was absolutely no other method of saving the life and there was a danger of losing both. This is what I am getting at.

**Rev. L. St. Arnaud:** I think the answer to this falls into the following perspective. We are trying as much as possible to protect innocent life, both of the woman and of the child; therefore, we cannot be said to prefer one life to the other. I was chaplain in military hospitals in Germany and in France and on the psychiatric staff of some of them, and I heard a non-Catholic medical man telling a whole conference that he, as a non-Catholic, was thankful to the Catholic Church, because he said that many doctors had been given the incentive to work harder to try to find the answer to this difficult problem; and that they had to try to live up to a Code similar to this one.

**Mr. Brand:** May I say that I agree with this philosophy. I think that what you are saying is very valid. You agree, however, that there would be a little bending of the rules, do you not?

**Rev. L. St. Arnaud:** I could not say. I can only express my own personal opinion, and that would not put you any further ahead.

**Mr. Brand:** I just wanted to make the point, contrary to some of the questions and testimony we have heard today, that this is not quite so totally rigid as some would have you believe. It certainly has not been my experience that such was the case.

**Rev. L. St. Arnaud:** No; that is understood, because, as I think I said previously, there is a moral judgment to be made. I think it would be safe to say that we never are out to prefer one life over another. We are quite

convinced, at least if we accept what doctors tell us nowadays, that there are few cases as rigid as this one will be.

We are also thinking ahead. For the protection of one person who is in dire distress, we would not like to see our sacrificing the principle of protecting innocent life. This is the only point.

**Mr. Brand:** I have one last question. Do you believe there are any grounds at the present time for clarification of the sections of the Code dealing with therapeutic abortions?

**Mr. Dehler:** Yes. I am glad you asked, Dr. Brand. I wish to direct my comments to the drafting of the proposed bill.

I do not think it has properly solved the contradiction which appears, and which you refer to, in your interim report. If you will notice, section 209 remains intact and you merely have the words "in the act of birth". These still extend the protection to any person, not necessarily a medical practitioner. That is the first point.

The second relates to section 237. It is simply amended by adding "exceptions".

In the framing of the exception, and despite the provision at page 26 of Bill C-195, in the proposed subsection (8) for the requirements of consent, it is stated:

Nothing in subsection (4) shall be construed as making unnecessary the obtaining of any...consent that...may be required...

...and so on. As the law now reads it could be interpreted as permitting a qualified medical practitioner to carry out an abortion without the consent of the mother; because the two exceptions introduced are those of a doctor doing the abortion and of a mother requesting the abortion; and they are separate exceptions. In other words, for greater clarification they might have added that it does not apply to a qualified medical practitioner who, in good faith, with the consent of the mother, uses means. Those words "with the consent of the mother" should be in the Act as it is there. You will note that it says that the two exceptions are "a qualified medical practitioner" or "a female person".

• 1315

Those are the two exceptions. They are separate exceptions, and the exception of the qualified medical practitioner does not

include the requirement of consent of the mother. That is my comment on that.

There has been much questioning directed to this Catholic philosophy contained in Article 16. I would only repeat that the Hospital Association is not requesting that that be deleted. It is in the law. The ground is there. At least the law should be clarified in this sense. I suggest that when it involves saving the life of the mother it should be in a hospital and by a medical practitioner.

**Mr. Brand:** Perhaps instead of the term "health", as in our interim report, it should be "life expectancy of the mother"?

**Mr. Dehler:** I would not agree with "life expectancy". The example you gave, of the mother going to die, presents a difficult problem. Although I do not think it is right, there is an interesting article by Paul Ramsey, who teaches Christian Ethics at Princeton, in the December 1967 edition of the *Dublin Review*. He tries at length to present the type of reasoning that we are groping for in this area. I would not agree with "life expectancy".

**Mr. Brand:** We are not groping, you are!

**Mr. Dehler:** I said "we are"—we, not you. I do not agree with "life expectancy" because you are not then talking of life against life but of duration of life against no life and I do not see why the life expectancy of the mother should be increased. Suppose the mother is 45 years old and her life expectancy is now 70; you say it is going to reduce her life expectancy by from five or ten years. Are you talking about the life expectancy of the mother without an abortion?

**Mr. Brand:** I have listened to your comments because this matter of life expectancy was brought up and it rather caught the attention of a few members of the Committee. However, I do not think this is the intent behind the term life expectancy of from five to ten years. I am speaking in terms of the fact that if something is not done the mother will die within a very short period. It could be limited in the bill and if she is in grave danger within 12 months, let us say—I think Mr. Forrestal brought that up at one time—you put a time limitation on the life expectancy rather than leaving it wide open.

**Mr. Dehler:** You are then widening the grounds by speaking of life expectancy. As it now reads it is simply the "life of the mother". That is the ground that now exists in Section 209 of the Criminal Code.

**Mr. Brand:** The term "life of the mother" would then depend upon what? Would you agree with the therapeutic abortion committee? They would decide just what "life of the mother" means and in their wisdom they may or may not agree that life expectancy could be part of the life. Do you not think there are grounds for a little expansion for any abortion committee?

**Mr. Dehler:** No, I think perhaps what you are referring to requires a definition of "life" for the purpose of this section.

**Mr. Brand:** While you are at it I would also like you to define a "human being". Nobody has ever done so. However, do not bother doing so today because I am sure we would be here all night.

**The Chairman:** That was an omnibus question.

**Mr. Brand:** I have no more questions.

**The Chairman:** Mr. Stanbury?

**Mr. Stanbury:** Mr. Chairman, I am anxious about the time, but I suppose Mr. Dehler will be back here several more times, so we will be able to question him again. As far as the other witnesses are concerned, perhaps I will ask one or two questions.

The impression one gains from the brief is that people who advocate change in the law fall into two categories, and I think one witness suggested that both are extremist views. Perhaps the record will indicate I am wrong, but I thought that was a comment that was made when a question was being answered.

• 1320

**Rev. J. Mole:** I will clarify that, if may.

**Mr. Stanbury:** In any event, I was wondering if any of the witnesses could assist me in trying to classify the groups that came before us into one of these two kinds of submissions. For instance, into which category do you suggest the submissions of the Anglican, the Presbyterian and the United Churches fall?

**Rev. J. Mole:** I think they are more permanent and, let us say, responsible institutions because they have more responsibility. The first category is that of the more permanent and responsible institutions, into which the Anglican, the Presbyterian, the United Church and those other people fall. I think it is a valid inference that the gist of their position is that they regard it as a necessary evil. However, they will also overlap into the

other position. Groups such as the humanitarian people, who talk about abortion on demand and even the rights of the woman with respect to what she does with her own body, take what we consider to be an extremist position. Sometimes one group will take both positions. Generally speaking—as a rough and ready measure—I think the more responsible and permanent institutions regard the question of abortion as a necessary evil, and the extremist groups insist on discussing the question in the light of the philosophy of life. That is why we prefer to discuss the question in their terms. We think they are taking a far more realistic view of the whole matter than the other group. We also want to discuss the philosophy of life that if you accept the practice you have to accept the philosophy of life that goes with it. You should know what the philosophy is before you accept the practice, and rather than discover it afterwards. You wake up one day to find that you really have a kind of philosophy of life that governs a country like Rumania.

**Mr. Stanbury:** Do you find that the opinions of those groups, which you describe as responsible, differ from yours?

**Rev. J. Mole:** Yes.

**Mr. Stanbury:** They demand, in fact, much the same kind of amendment as that which has been proposed.

**Rev. J. Mole:** They differ because they have resigned themselves to the situation, and we do not want to resign ourselves to that situation.

**Mr. Stanbury:** But they differ from you?

**Rev. J. Mole:** Yes.

**Rev. M. Dussault:** I think it is wrong to put the question of abortion on the basis of the Catholic Church versus others.

**Mr. Stanbury:** I did not mention the Catholic Church, I asked whether those groups which you have described as responsible, differ from you.

**Rev. J. Mole:** Responsible always having the meaning that they have more responsibility.

**Mr. Stanbury:** All right.

**Rev. J. Mole:** They are permanent institutions, they are there to uphold the moral standards of society.

**Mr. Stanbury:** And would you include as responsible groups the Canadian Bar Association and the Canadian Medical Association?

**Rev. J. Mole:** Yes.

**Mr. Stanbury:** Would you include the Canadian Council of Women?

**Rev. J. Mole:** Yes. These are permanent organizations in our society. These other organizations are fly-by-night groups which just came into being.

**Mr. Stanbury:** You agree that all those responsible groups differ from your opinion?

**Rev. J. Mole:** Yes, the ones that you mentioned.

**Mr. Stanbury:** Do you know how many hospitals there are in Canada?

**Rev. J. Mole:** About 1,800, I believe.

**Mr. Stanbury:** How many are members of your association?

**Rev. M. Dussault:** We have around 300 hospitals.

**Mr. Stanbury:** I do not suppose you know, and I presume we do not know because we have not yet heard from any other Canadian hospital association, but do you think the expression of opinion you have given us on behalf of your 300 hospitals would be reflected in the opinion of the other 1,500?

**Rev. J. Mole:** We hope that the other hospitals will speak up on this matter.

**An hon. Member:** We hope so, too.

**Rev. J. Mole:** Because the whole effect of the amendments to the Code is to put the entire question in the lap of the hospitals.

**Mr. Stanbury:** You do not know what their attitude is?

**Rev. J. Mole:** We would very much like to know.

**Mr. Stanbury:** I suppose you believe from your association with other hospital groups that they also have a high regard for life, and perhaps as high regard as your own. Perhaps it is unfair to suggest that you in any way are giving preference to one life over another. As I understand it, the philosophy on which your position is based, and which you have said is so important to your position, is that life at any stage before or after birth has equivalent

value. If I understand that philosophical position correctly...

• 1325

**Rev. J. Mole:** There is no question of degree, because in the question of life and death, you either live or you die. You are either allowed to live or you are put to death; there is no question of degree.

**Mr. Stanbury:** Then my understanding is correct that you apply the same value to human life whether it is at the moment of conception, three months after conception, nine months after conception, after birth or immediately prior to death.

**Rev. J. Mole:** It is an absolute right, irrespective of what stage it is at.

**Mr. Stanbury:** Would you agree that this philosophical viewpoint is not shared by all Canadians?

**Rev. J. Mole:** This is the position of the law up to this moment. This is a question of the principle of the inviolability of innocent life, which hitherto has been the foundation of all civilized societies.

**Mr. Stanbury:** But I am sure, sir, that you have read widely and possibly in your position you would not suggest that that philosophical concept—the identity of the value of human life at every stage from conception to death—is one commonly held by all religious and philosophical groups within our society?

**Rev. J. Mole:** The answer to that is we do not think they have sufficiently examined the implications of change.

**Mr. Stanbury:** But the answer really is no, it is not commonly accepted. Is that correct, Mr. Dehler?

**Mr. Dehler:** I would say so.

**Mr. Stanbury:** Thank you.

**Rev. L. St. Arnaud:** May I, Mr. Chairman, add the short remark that there are two meanings to the word "value". There is a fundamental meaning which points down to this because we are not the creators of life, we do not have any right over it. If we suppose that we are the creators and there is a secondary value, and we acknowledge the fact that a man 45 years of age can do things that a boy three years of age cannot do—

**Mr. Stanbury:** I think I understand the philosophical basis quite well. I find it difficult to agree with it but I think I understand

it. I wanted to get that clear. It seems to me that is the real difference between your position and the position of these other responsible groups you have mentioned.

**Mr. Dehler:** May I correct you in this respect: For example the Anglican Church brief says in paragraph 10:

We assert the general inviolability of the foetus and defend, as a first principle, its right to live and develop.

The Anglican Church brief again says in paragraph 12:

In every proposed abortion due consideration must be given to the sacredness of human life, the life of the unborn child and the life of the expectant mother.

In other words, there are some groups who agree with our conception of life but invoke a change in the laws as something that has to be done, that is necessary, at this stage.

**Mr. Stanbury:** We are talking about these responsible groups you were talking about previously, and without taking the time, because we really do not have it now, to go through and proof-run them I think you will agree that the three churches that have presented views to us have taken the position, either in response to questions or in the text of their briefs, that human life exists before birth but it does not necessarily have identical value at every stage of its development. Now I put that forward as my opinion of what they said, but whether or not that is correct, you would disagree with that?

**Rev. L. St. Arnaud:** I do not think we can infer from what they do or do not say.

**Mr. Stanbury:** I do not ask you to infer anything. I simply ask you whether or not you would agree with that position. I think I understand that you do not; you apply an identical value to human life at all stages.

• 1330

**Rev. L. St. Arnaud:** Are you asking us to classify these people?

**Mr. Stanbury:** You did classify them as responsible.

**Rev. L. St. Arnaud:** Yes. Then you pursued the question and asked whether these people confirmed our position and if so, in what respects, and we were trying to understand what they meant by saying that they would not place an absolute value at all stages of life. I do not think this is correct.

**Mr. Stanbury:** I would be glad to go through and proof-run it but I do not have time. I simply suggest that is a basic difference between your position and theirs. All you can do is make your position clear and I think you have on this philosophical point of departure. Although it is not perhaps a hospital matter, the Catholic practice is to baptize the foetus at any stage of its development if it should die. Is that correct?

**Rev. L. St. Arnaud:** Yes, except if the medical doctors say there is absolutely no life.

**Mr. Stanbury:** But even if it were two weeks old?

**Rev. L. St. Arnaud:** Oh, yes, I have baptized a number of them.

**The Chairman:** I think the doctors here said "provided the foetus is recognizable", you do not baptize something that you do not know.

**Mr. Stanbury:** But I think the clergy present are consistent in that respect, that they consider that the foetus, from the moment it begins its life, should be treated as a human being for religious purposes.

Does the civil law with respect to burial agree with that religious position? In other words, is burial required for a two-week old foetus?

**Mr. Dehler:** If you are referring to birth and death certificates, then I would say the civil law does not reflect the Catholic position.

**Mr. Stanbury:** Is burial of a foetus required under the law of any province, regardless of the age of the foetus?

**Mr. Dehler:** I do not think the law goes into that. Burial is required for people, and if in fact there is a burial it will be recorded.

**Mr. Stanbury:** So the civil law does not coincide exactly with your philosophical position in this regard.

**Mr. Dehler:** If you are talking about burials, the cemeteries act and so on, the civil law does not define, for burial purposes, what a human being is; they merely provide that there shall be burials for human beings.

**Mr. Stanbury:** The civil law does not require a death certificate for a foetus?

**Mr. Dehler:** Well, you will not have a death certificate unless there is a birth certificate, and if there is no birth there is no death.

**Mr. Stanbury:** But that does not comply with your philosophy because you suggest that there is a birth of life even before it is possible to have a death under the civil law.

**Mr. Dehler:** The thing is that this is a creation of life that exists. Birth in the legal sense means to come to birth, it does not mean to exist.

**Mr. Stanbury:** Therefore what you consider to be the death of a foetus would not require a death certificate under the civil law.

**Mr. Dehler:** I would say, subject to being corrected by those who are looking into this, that if there is a burial there will be a recording of the burial.

**Mr. Stanbury:** If a doctor performs an abortion in a hospital on a two week old foetus, a month old foetus, a three month old foetus, does the law require that a death certificate be made out?

**Rev. J. Mole:** No, it does not.

**Mr. Stanbury:** But you consider the death of the foetus a human death?

**Mr. Dehler:** Yes, that is correct.

**Mr. Stanbury:** So I am simply suggesting to you that your philosophical position does not coincide in all respects with the civil law.

**Mr. Dehler:** Well, the civil law does not coincide with our position.

• 1335

**Rev. J. Mole:** In principle, it does, but not in all details.

**The Chairman:** I do not think Mr. Dehler is correct in all that he said because there does not always have to be a birth and a death certificate. I think, if you check, you will find that a stillborn requires only one certificate.

**Mr. Stanbury:** The point was made that civil law supports this philosophical position. I am simply pointing out, to try and clarify this situation, that in all ways the civil law does not conform to your philosophical position.

**Mr. Dehler:** Perhaps not in its application to the different problems of human life but, in principle, it recognizes human life in its prenatal stages.

**Mr. Stanbury:** I am just trying to develop your general feeling. From what you said a few minutes ago, you recognize that your philosophical position is not one commonly held by Canadian society and it is not applied in all instances by the civil law.

**Mr. Dehler:** I think you are saying something different, that all people in Canadian society do not think the way we think.

**Mr. Stanbury:** And even large responsible groups, such as we have had here, do not think the way you do.

**Mr. Dehler:** Some...

**Mr. Stanbury:** You did say before that you did not suggest that this philosophical basis for your presentation was one that was commonly held within our society.

**Rev. L. St. Arnaud:** Would you not make a distinction there though? I think you should say that a great number of people do not think the way we do. But if you are using the word "commonly"...

**Mr. Stanbury:** That is a matter of judgment, I think.

**Rev. L. St. Arnaud:** I do not think so. I think there is a technical difference in the use of the word "commonly" which might involve or include legal institutions. The thinking of legal institutions can be subdivided into what their principles lead to, and I would be inclined to say, that up to now, within the Anglo-Saxon community, the principles are in accordance with some basic tenets of our philosophy of life, although all the people that do claim to evade this general tendency of the Anglo-Saxon laws, will actually follow their—supposedly—soul.

**Mr. Stanbury:** You suggest, quite properly I think, in one part of your brief that the state is the guardian of those laws of morality that are commonly accepted by citizens generally as the foundation on which our society is built. Perhaps the elected representatives of the people would be the logical persons in our democratic system to judge what those commonly accepted laws are that should be the basis of our civil laws.

**Rev. L. St. Arnaud:** Yes.

**Mr. Stanbury:** Is there any group of people in our democracy that you would suggest should have the responsibility, above Parliament, to change the law when they have heard the evidence?

**Rev. J. Mole:** The Minister of Justice has made certain recommendations for the new Canadian constitution—I believe, at any rate, it was the Minister of Justice, and I wish to congratulate him publicly for the idea—that Parliament should be subordinate to the judiciary as in the United States, in order that Parliament may not take an extremely grave decision on a fundamental principle that is the foundation of human society without that decision being challenged before the Supreme Court.

**Mr. Stanbury:** Regardless of what challenge might be made of a law, the ultimate responsibility for deciding what our society should have in the way of law is in Parliament, is it not?

• 1340

**Rev. J. Mole:** So far, yes.

**Mr. Dehler:** There is a distinction to be made, I think. There is no doubt that all human laws in a society are made by those responsible for the human laws of that society. We have our parliamentary system here; it might be a monarchy somewhere else. The institutions for the making of human laws will vary. However, you are going to be of one of two minds, that human law is the only law that exists and there is no other law above human law, or that all rights of the individual are those that are given by the legislature. I would distinguish between the authority for the human laws and the rights which stem from the fact of existing as a human being.

I will use an example: we have a Bill of Rights that declares certain fundamental rights are recognized to exist in Canada. It is not because the legislature has enacted the Bill of Rights that these rights exist. The right to life is one that is recognized by the legislature and declared to exist in Canada.

To answer your question I would say that it comes down to the question of whether you can invoke these rights for prenatal life. The civil law has, over the years by its pronouncements—and this is strange, I think—indicated what constitutes the foetal life, and so forth, at certain stages when we did not have the medical advances that we have today. Instead of pushing back, in the sense of pushing back in weeks and months, to an earlier prenatal stage these rights that have been honoured in civil law over the centuries we are instead, at the level of criminal law,

going the other way and saying that these prenatal rights, long recognized in civil law and confirmed even by medical knowledge to date, should be pushed back not only after six months pregnancy but even to three months or two months and should, for the purpose of the criminal law, not be recognized and, therefore, saying that the taking of prenatal life really does not involve the taking of human life.

**Mr. Stanbury:** We have a law now with respect to abortion and it is criminal law. That was made by Parliament.

**Mr. Dehler:** It was.

**Mr. Stanbury:** And when that law is changed it will have to be changed by Parliament.

**Mr. Dehler:** Yes, that is correct.

**Mr. Stanbury:** And the only people who can take the responsibility for deciding when that law should be changed and how it should be changed, is Parliament.

**Mr. Dehler:** That is correct.

**Mr. Stanbury:** You accept that?

**Mr. Dehler:** Indeed.

**Mr. Stanbury:** Thank you.

**Mr. Rock:** Yes, Mr. Chairman, I would like to ask two questions. First of all, to the head of the Association, Father Dussault, was your brief approved by all the hospitals belonging to the association?

**Rev. M. Dussault:** Yes.

**Mr. Rock:** Mr. Dehler, when you were answering questions from Mr. Macdonald you suggested and, of course, your brief suggests, that we should have a Royal Commission to study this further rather than a Parliamentary Committee. One of the main terms of reference you mentioned was to determine ways and means of reducing the number of illegal abortions in Canada.

Do you not feel that the only way you can reduce illegal abortions in Canada and stop these people going to the back door abortionist is to allow them to go directly to the office of any doctor and ask him for an abortion outright, making that legal?

**Mr. Dehler:** I say it is one way, it is not the only way.

**Mr. Rock:** Well then, what other recommendation do you think a commission could make in order to stop illegal abortions and make it unnecessary for people to go to those who perform illegal abortions?

**Mr. Dehler:** Depending on the fact findings I think first they would search out the causes of people seeking abortion in the first place and root them out. What are the real reasons people seek abortions? Are they social, economic and so forth? What are they?

Second, if on the finding of fact there was a finding that widening of abortion laws would, in fact, decrease illegal abortions in the sense that I explained, that decrease the number of deaths, why are we so concerned about illegal abortions? I think one of the main areas of concern is that these people go to non-professional and illegal practitioners of abortion with the result that there are maternal deaths.

• 1345

If the findings were, in fact, that widening abortion laws would decrease the number of deaths that result from illegal abortions and also that this were the only way to do it, then there might, at that stage, be a justification for the law although I would not accept it as moral. You would be invoking the principle of the lesser of evils, because, in fact, it is the only way and would be decreasing deaths rather than adding to the number of deaths.

But based on everything said to date before this Committee, I think it is fair to say that the real reasons invoked for abortion are sociological and economic, in the main. I am not talking about saving the life of the mother. For example, the Anglican brief in the broadest sense defined "health" to include the relation of mother to environment. If that is true, then there must be sociological and economic solutions to this problem, and rather than invoke the radical solution of abortion the other solutions must be of an economic and sociological nature.

**Rev. J. Mole:** And which a royal commission would be more competent to find out.

**Mr. Rock:** Yes. This is quite all right for the married couple and the pregnant mother who may have an economic and social problem. For example, let us take the case of a single girl within the family life. What about her future, so that people in the immediate area where she lives will not know? Let us say the parents want her to have this child.

She would then, of course, have to leave her environment and live in another city until she had her baby. In this case it is understandable that people in the area would find out that this girl had disappeared for so many months. They would ask questions about where the daughter was and possibly they would say that she had gone to visit her auntie in Toronto or Montreal whatever the case may be. The neighbours would then think, adding two and two together, that so-and-so must be pregnant if she had to leave for such a long time. Her situation is therefore practically known. Whether it is true or not it is still what they would be thinking, possibly. This girl, hidden for so many months in order to have her baby, now has to face another problem; whether she is going to keep her baby or not. If she is going to keep it—and I understand many girls in this supposedly modern age want to keep their babies even though they are not married—there is another problem. That problem is adoption. If the child is adopted there may be a psychological problem in later years because the girl wants to know what happened to her child, and all that sort of thing.

**Rev. J. Mole:** We can be of assistance to them.

**Mr. Rock:** Yes, I know assistance can be given, but here is a young girl of 17, 18, 19 or 20, whatever age she may be, having to face all these facts, and yet if she had the right to go to a hospital and have an abortion at an early stage she would not have to face all these other facts. Not only that, but she would have a better chance in life. I believe this is one thing you have to take into consideration. You are more or less, always talking about the family and the married woman rather than the single girl. We have not touched upon the single girl and her predicament.

• 1350

**Mr. Dehler:** We ask, for example, that you define the juridical status of an unwed mother.

**Mr. Rock:** We are here to listen to you and ask questions, not to define.

**Mr. Dehler:** The problem you speak of is a real problem, and you have proposed a solution to the problem.

**Mr. Rock:** No, I am not proposing a solution, I am just thinking of the possibilities.

**Mr. Dehler:** What you say is true.

**Mr. Rock:** All these girls end up by going to a back-alley abortionist rather than a doctor.

**Rev. J. Mole:** If Parliament wants to give the right to that girl to kill her foetus, it must have that right. We say Parliament does not have that right. We cannot give a girl what we do not have. We do not have the right over life and death. If Parliament does not have that right it cannot give it to a girl. It is too bad.

**Rev. L. St. Arnaud:** May I, Mr. Chairman, just answer from the psychological point of view, which is interesting for me because I am in that particular business, if you want to put it that way. I can assure you that from a psychiatric viewpoint abortion will cause more problems than any other means as far as psychiatric science is concerned, and this even includes the problems that a single girl will have to face in the delivery of her baby, and so on.

Furthermore, in my practice in the western part of Canada I have dealt with these people on a number of occasions. In some communities at that time we had what we called family clinics, which were capable of providing an understanding environment, and we found that if the girl remained within the community it was much better than any other means of dealing with the problem. In other words, I would be prepared to say, from the standpoint of truly psychological and psychiatric problems, that abortion is the worst possible solution. It is not the solution at all.

**Mr. Rock:** Is it worse than adoption?

**Rev. L. St. Arnaud:** No, no, I am not saying that it is worse than adoption. I am saying that it is not a solution at all. If you were using it and preaching, as it were, against adoption and if the girl were not being prepared for adoption, not only at the very beginning of her problem but through the very serious follow-up, then I maintain my statement that an abortion would be worse than this. However, the sad fact is that we do not do enough. We have the men to do it. The psychiatric profession in Canada is possibly one that has great status. I hear this from many psychiatrists in Canada. Therefore we have a very good association of men who are willing to help. I believe that we would find the true answers come through these means other than abortion, which is actually a very

serious problem, not only from a physically standpoint but even more so from a psychologically standpoint.

**Mr. Rock:** Thank you.

**Mr. Allmand:** I have just one follow-up question. Gentlemen, you have said you would accept a clarification in the present law. You realize that if the present law was clarified it would still allow direct abortion when there was a serious threat to the mother's life. This is a different position from your own code of ethics. You therefore accept the fact that a position can be taken by the public law. You are agreeing to a position which morally goes further than you are willing to go yourselves. Once you accept the fact that the public law can go a step further morally than you are willing to go, what is the criteria which has put this degree of difference on it but will not let it go to the further degree of allowing "health"? You have made a departure in allowing...

**Mr. Dehler:** We are not allowing it in the sense of blessing it or saying that we favour it. It is the law.

**Rev. J. Mole:** As the law stands in regard to indirect abortion to save the life of the mother we respect the law.

**Mr. Allmand:** If we clarified the law it would allow direct abortion where the mother's life is...

• 1355

**Rev. J. Mole:** We take no position on that at all. By clarification of the law we do not mean that it permits direct abortion.

**Mr. Allmand:** Mr. Dehler said he thought the law should be clarified with respect to what is presently permitted. I think it was always agreed in the courts that you could abort if it was to save the life of the mother, although the wording was not very clear. You now say that should be clarified?

**Mr. Dehler:** May I just correct one thing about the law and the courts. It would depend upon how you charge a person under section 209 or section 237. If the charge was laid under section 209, the person could invoke the exception by saying that he was doing it to save the life of the mother. If the charge was laid under section 237, the exception under section 209 could not be invoked and therefore in the courts it would depend upon how the charge was laid. Second, I said

"clarify the law". As I now read the law the ground for abortion which is recognized in section 209 is abortion to save the life of the mother and when it is done in good faith according to the wording of that section.

**Mr. Allmand:** That is right.

**Mr. Dehler:** I disagree with that being there because of my beliefs. However, it is there, and there is a question of practical judgment. I am not here to recommend, and I think as a matter of practical judgment that a recommendation will not be made to make all abortions criminal. I doubt very much that in this particular case there will be a recommendation that you not even allow it as you allow it now. The issue is should we widen the grounds of abortion. There was much questioning on this moral point.

We are not here to invoke that, but if there was a real chance that its invocation before this Committee would result in a recommendation to ban abortion completely, that would be so much the better; but here is a practical judgment involved. We may say, "Verify the law. You have grounds there. Do not extend them because it is bad for society and will undermine it."

**The Chairman:** Are there any other questions? Mr. Cowan.

**Mr. Cowan:** I wish to make some comments before I ask one question.

Mrs. MacInnis—I am sorry she has gone—made some reference to the brief of the Presbyterian Church. I would like to inform this group here today that I am a Presbyterian. In the middle of that brief you will find the three-word sentence: "Abortion is murder". As a Presbyterian I object to the way that matter was brought before the Assembly. It did not come up by an overture either by the congregations, presbyteries, or the synods. It was brought in by a committee of what I call the hired help of the general offices, and was adopted in that way.

Regarding the letter from St. John's Hospital in London, I got a copy, as well. In the second line of it the gentleman points out that it is a private letter. I was quite surprised to find him writing a private letter and using a public address. He has not got his home address in the letter anywhere. He has such-and-such Family Centre, St. Joseph's Hospital, London; and it is a private letter.

Mr. Knowles expressed some concern over the fact that clergy and no doctors could be

on a hospital mission. Well, I can only say to you gentlemen that someone with more intelligence than I once said "War is too important to leave to Generals". I say to you, "Abortions are too important to leave to doctors".

Some gentleman here asked how many hospitals there are in Canada. The answer was that there are about 1800. I have not got the figures before me. Dr. Harley is an able doctor, but speaking from experience I would say there are about a thousand hospitals in Canada. I may be wrong. I will get the figures and bring them before the Committee, next week, Mr. Chairman.

Taking it that there are about a thousand hospitals in Canada, I want to ask Mr. Brown my only question.

On page 3 you state:

Our 300 Catholic hospital today only comprise about a third of the total hospital services of the nation.

Have you any figures on how many beds there are in Catholic hospitals, and what proportion they might be of the total hospital bed capacity of the nation? I do not think that the Catholic hospital contribution to this nation is only about 30 per cent. I thought you might make a bed count. I am well aware of Notre Dame Hospital and Hotel-Dieu Hospital in Montreal; the Scarborough General Hospital, St. Joseph's Hospital and St. Michael's Hospital in Toronto; and your big hospitals in Sarnia, London and Peterborough. What would be the percentage of bed capacity?

**Father Dussault:** We have 62,000 beds in our Catholic hospitals.

**Mr. Cowan:** What is the total hospital bed capacity of Canada?

**The Chairman:** Father Dussault has given me a list of Canadian hospitals and related institutions and facilities for 1968. This shows the number of operating hospitals in 1968 in Canada to be 1,421, with a bed capacity of 209,694.

**Mr. Cowan:** Therefore, the percentage in bed capacity is about the same as...

**The Chairman:** About one third.

**Mr. Cowan:** Does that include military hospitals and...

**The Chairman:** I said all operating hospitals.

**Mr. Cowan:** I would point out that TB sanatoria and military hospitals are certainly as much Catholic as Protestant, and that your contribution is therefore more than one third per cent. I have just one final remark. I want to tell Mr. Rock that if the girls he was talking about get into trouble they do not have aunties in "Toronto the good"...

**The Chairman:** He said Montreal and Toronto.

**Mr. Cowan:** I know he did. You can extend it to Montreal if you wish.

**The Chairman:** Gentlemen, I wish to thank you very much for appearing today, for presenting your brief and for exposing yourselves to questions by the members of the Committee. Thank you very much.

## APPENDIX "OO"

[Translation]

HÔTEL-DIEU DU SACRÉ-COEUR  
DE JÉSUS  
DOLBEAU, P.Q.

January 24, 1968

Mr. Harry C. Harley, M.P.,  
Chairman,  
Standing Committee on Health and Welfare,  
House of Commons,  
Ottawa, Ontario

Dear Sir,

In view of the importance and of the number of problems raised by the introduction of Bill C-195, the Board of Directors of our Hospital has deemed it its duty to take a position on the bill concerning legalized therapeutic abortion.

To this effect, you will find herewith the extract of the Minutes of a meeting of our Board of Directors which met to discuss this important question.

We hope that our action will not go unnoticed and that it will contribute to a more appropriate awareness of the magnitude of such proposed legislation. Hoping to get your support, we remain

Yours sincerely,

The HÔTEL-DIEU DE DOLBEAU

(s) M. Beaulieu

Maurice Beaulieu

General Director

EXTRACT FROM MINUTES OF A MEETING OF THE BOARD OF DIRECTORS OF THE HÔTEL-DIEU DU SACRÉ-COEUR DE JÉSUS OF DOLBEAU, HELD JANUARY 22, 1968

1. "Study of the Criminal Code: The Board of Directors of the *Hôtel-Dieu du Sacré-Cœur de Jésus* of Dolbeau 'recognizes the necessity for clarifying the present text of the Criminal Code in matters of abortion, it declares itself opposed to any proposal tending to liberalize it.' (A.H.C.C.)

2. *Necessity for Consultation:* Regarding a question both grave and serious as it concerns the right to life, our Board of Directors regrets the absence of consultation and means of investigation, both of which should have been performed more adequately among the Canadian population, intermediary bodies and associations, especially hospitals, before the draft law on abortion was introduced in the House.

3. *Respect for Canadian Ideology:* Given the present Canadian context, our Board of Directors feels that in the ideology of our Canadian society, the rights of the individual are recognized and the State, in Canada, is duty bound to protect these rights. As a result, we believe that through deficient or hurried legislation, the State runs the risk of encroaching on the rights of the individual by expounding a philosophy contrary to that of our Canadian society. The draft law on abortion, in our opinion, strikes a serious blow not only at the philosophy of our people, but also at its character and psychology. A wise step, therefore, would be to conduct a survey among the people who do not appear to share the ideology of the proponents of this law, a survey which might put into better perspective the attitudes of our law-makers who judge themselves to be the representatives of our Canadian people.

4. *Indefinite Reasons:* In Section 17, in the confused text of the act regarding therapeutic abortion, very vague reasons are given. This section would permit abortion when "continuation of the pregnancy endangers or is likely to endanger the life or health of the mother." We feel that the health of the mother is an elastic criterion which may involve rather wide interpretations of the law, particularly when psychiatric reasons are taken into account. It is important, therefore, that such reasons be examined in depth and that the problem be considered in its entirety and in the light of fundamental causes.

5. *Therapeutic Reasons*: Our Board of Directors objects to therapeutic reasons in the case of abortion. Ways do exist for preserving the life of the mother and of the child and we feel that medicine is called upon to use all beneficent means and all the techniques at its disposal, even in the most difficult cases, to save both the life of the mother and of the child. The establishment of a Royal Commission is recommended to better study the problem from the professional point of view.

6. *Abuse of Power*: We feel that abortion left unpunished cannot be assimilated with legally permissible abortion as the State cannot justly allow what is contrary both to natural and divine law even though the State in certain cases, may abstain from punishment owing to the hazy ideas of science in this matter. We believe that a Royal Commission would enable the State to place the problem in the proper perspective.

7. *Doubtful Statistics*: The impressive statistics put forth to denounce the social scourge of illicit abortion appear to us to be far from conclusive as they are more than likely to be based on uncertain and insubstantial investigation. Moreover, can underground criminal activities be dealt with in an objective investigation? Will the law be adequate to henceforth eliminate all illicit activity in all cases of abortion?

8. *Religious Option*: Accordingly, the Board of Directors of the *Hôtel-Dieu du Sacré-Cœur de Jésus* of Dolbeau requests suspension of the discussion of the Draft law on abortion and formation of a Royal Commission to examine the problem in all its aspects."

Sr Alberta Briand, o.s.a., Secretary,  
Board of Directors.

## APPENDIX "PP"

## ABORTION PROGRAMS\*

ANDRAS KLINGER

Hungarian Central Office of Statistics

(Published in *Family Planning and Population Programs*, Bernard Berelson, ed. (University of Chicago Press, 1966))

Among birth control methods, induced abortion is known to occupy a very important place in every country. Its role in family planning varies, however, and is measured with different degrees of accuracy according to its legality in the country involved. This summary deals with the legal aspects of abortion which permit broad masses of women to adopt it as a means of influencing their family size.

We are concerned with the legality of abortion which permits the interruption of pregnancy, not only for health and biological reasons, but also according to the will of the woman (family) on the basis of socio-economic or other family considerations. Our experience is derived mostly from the situation in Hungary but also includes the situation in some other European socialist countries in which the practice or legal rules are similar to those in Hungary.

In Hungary the legal rules permitting induced abortion came into force in 1956. The Order of the Council of Ministers, issued in June, 1956, authorizes the woman (mother) to make a conscious determination of desired family size and permits her to interrupt an undesired pregnancy by means of induced abortion.

Induced abortion was legalized on similar principles in the Soviet Union, Bulgaria, Czechoslovakia, and Romania between 1955 and 1957, as well as in Yugoslavia in 1960.

To deal with the practical aspects of the law, most countries have established committees to receive applications and grant the necessary permission. In Hungary, these committees—which work partly in co-operation with the specialized organs of the health service, with the outpatient departments—consist of three members. The Chairman of the

committee is always a doctor, one of its members is the head (or delegate) of the socio-political group of the local administrative organ, and the other member is a delegate of the local women's association. The committees hold their sessions twice a week and receive the applicant women. Before applying for permission the women undergo a gynecological examination in the course of which the duration of their pregnancy is determined.

The induced interruption of pregnancy is permitted, in general, on the basis of two types of circumstances. One is the rather universal consideration of health indications, the other involves circumstances of a social and family nature. Most countries make this distinction between the two groups of causes in their legislation. In Hungary the committee permits the interruption of pregnancy in the following cases: (1) if the interruption of pregnancy is necessary in order to save the life of the pregnant woman or to protect her from a grave illness or from the worsening of her illness or if the foetus to be born will presumably be exposed to a grave injury; (2) if the interruption of pregnancy is justified by personal or family circumstances deserving acknowledgment or if the applicant insists on the interruption of pregnancy.

Instead of these general statements, the legal rules of other countries specify more concrete causes for permission. Thus, besides health causes the legal rules in Czechoslovakia permit induced interruption of pregnancy in the following cases considered to deserve special attention: (1) advanced age of the woman, (2) (at least) three living children, (3) loss or disability of the husband, (4) disruption of family life, (5) endangering the living standard if the economic responsibility for the family or the child falls mostly on the woman, (6) an unmarried woman, and (7) circumstances under which the pregnancy was caused, e.g., by violence or crime.

In some countries, permission is formulated in more general terms. In Poland, induced interruption of pregnancy is permitted in

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instances of a "serious social position" of the woman and in Yugoslavia the law specifies "grave personal or material circumstances" of the woman.

According to the practice in Hungary, the proportion of induced abortions performed for illness is relatively very low: in 1964 less than 4 per cent, with the other 96 per cent permitted on the basis of other (social or family) causes. The ratio of abortions permitted because of illness did not exceed 5 per cent to 6 per cent in any year.

Conclusions on the probable factors involved in induced abortions permitted for "other" causes can be drawn from the data of two sample surveys. In the course of two months (October, 1960, and April, 1964) after their induced abortions, women were questioned on their birth control and family planning practices, as well as on their subjective motives for the induced abortion. On the basis of these investigations we found that about one-third of the surgically aborted women applied for the interruption of pregnancy because they did not want to have more children. Bad dwelling accounted for another sixth while unfavorable marital or family status was the reason for another 10 per cent in the first survey and 15 per cent in the second. As can be seen in Table 1, low income declined from 13 per cent in the first survey to 9 per cent in the second.

A similar survey of about 26,000 women in the Soviet Union in 1958-59 found that about

one-third of the women simply said they did not want to maintain their pregnancy. About 10 per cent accounted for such factors as uncertain marital circumstances, the difficulty of caring for the child, or the problems of bringing up a small child already born.

Beside the subjective motive, duration of the pregnancy is also a factor in permission for induced abortion. This is unambiguously stipulated in the legal rules which prescribe that induced abortions can be carried out only during the first three months (12 weeks) of the pregnancy, and after this only if, after thorough considerations, the state of the woman's health makes it absolutely necessary. In Hungary, as an exception, induced interruption of pregnancy is permitted for girl-mothers between 16 and 20 years of age if the pregnancy has not exceeded 18 weeks. According to the sample survey of 1964, 38 per cent of the women applying for induced abortion were in the fourth to seventh week, 57 per cent in the eighth to eleventh week, and only 5 per cent in the twelfth to nineteenth week of the pregnancy.

The Hungarian legal rules permitting induced abortion prescribe that they be carried out in the gynecological wards of hospitals or in maternity homes. Induced abortions must not be performed in out-patient departments, a condition which safeguards the health of the mother. In general, hospitalization for three days after the operation is deemed necessary, but under proper circumstances the aborted woman is discharged on the second day because hospitals are overcrowded.

The fact that artificial interruption of pregnancy is permitted does not mean that our health policy regards induced abortion as the only or best means of birth control. Its only purpose is to make it possible for women who conceive through ignorance or unsatisfactory knowledge of prevention to terminate an undesirable pregnancy. The Hungarian legal rules, therefore, try to connect permission to interrupt pregnancy with information on contraception and the dangers of induced abortion. In some cases, in compliance with the law, the committee attempts to dissuade the woman from requesting permission when the grounds are other than health considerations.

The order of 1961, as a supplement to the basic legal rule, makes it the duty of the committees to speed the explanatory activity

TABLE 1

DISTRIBUTION BY SUBJECTIVE MOTIVE OF WOMEN UNDERGOING INDUCED ABORTION FOR CAUSES OTHER THAN ILLNESS (Per Cent)

Motives	October, 1960	April, 1964
Number of children is enough.....	30.5	32.7
Youngest child is still small.....	9.7	8.0
Fear of confinement or illness.....	10.3	8.1
Advanced age.....	4.1	3.9
Unfavorable marital or family status.....	9.7	14.5
Bad dwelling circumstances.....	15.2	16.1
Low income.....	13.4	9.2
Saving purposes.....	1.8	3.0
Difficulty caused by a child in one's work.....	3.8	3.2
Other and unknown.....	1.5	1.3
Total.....	100.0	100.0
Total number of women.....	12,333	13,892

so as to have the time, where it seems advisable, to convince the applicant to maintain her pregnancy. To this end the committee deals with the requests of childless women or women with one child at a separate session, drawing their attention to the possible injury to health and emphasizing the necessity of using contraceptives. Decisions are not made at this first "informatory" session but the committee asks the woman to go home and think over what she has heard, to talk the question over with her husband, and to report at the next session of the committee.

In most committees this informative work is rather formal and yields little practical result. Since the character of the committee is mainly consultative, its major authority being to reject the request only if the duration of pregnancy exceeds 12 weeks (or in some cases 18 weeks), most women (knowing this) return for permission to interrupt pregnancy, which the committee is obliged to grant. Thus the activity of the committee in this field is unfruitful and its sphere of authority to refuse permission can be regarded as rather limited.

Since the interruption of pregnancy for causes other than illness takes place at the will of the woman, the law provides that payment by the social insurance scheme apply only to those abortions performed for illness. For all other cases, expenses of the first three days of hospital treatment are borne by the applicant or her husband; or if the applicant is under age (under 18 years of age) and has no income, a responsible relative is obliged to pay. However, beginning with the fourth day of hospitalization, the applicant is entitled to all the services she normally would receive under the social insurance system. In practice, these provisions mean the payment of 360 forints (about \$16.00) for induced abortion based on non-medical reasons. This amount (representing about one-fifth of the average monthly earnings of the employed) does not cause any difficulty to applicants and does not hinder them from applying for permission to interrupt unwanted pregnancies.

The subjective motives explain why the pregnancy is unwanted but what explains the lack of prevention of conception? According to sample surveys, in Hungary only 52 per cent of the surgically aborted women employed regular prevention against conception in 1960; in 1964 the figure was 54 per cent. Another sample survey (the so-called TCS study on fertility, family planning, and

birth control carried out in 1958-60) showed that only 21 per cent of Hungarian women practice birth control by contraception, 18 per cent by interruption of pregnancy, and 37 per cent by both methods. This means that 58 per cent of the women employ contraception; most of them, however, are unsuccessful.

Of the aborted women who became pregnant despite regular contraceptive use, 63 per cent in 1960 and 44 per cent in 1964 attributed the pregnancy to occasional omission or negligence. Another 21 per cent in 1960 and 27 per cent in 1964 claimed the pregnancy was due to improper use of the method employed, while those who considered defective contraceptives responsible increased from 4 per cent in 1960 to 13 per cent in 1964. These data are given in Table 2.

The relatively great number of undesired conceptions which take place in spite of prevention can be explained by the fact that Hungarian women use relatively primitive and inefficient methods of contraception. Coitus interruptus, the oldest means of prevention, represents the greatest proportion. According to the TCS study, the majority of contraceptors, 52 per cent, use this method. It will be noted, too, in Table 3, that of the aborted contraceptors (who had a child), 54 per cent in 1960 and 44 per cent in 1964 relied on coitus interruptus. While the trend is in the right direction, the decrease in the use of this method should be greater considering the availability of more effective methods. In this connection, however, the greater clinical effectiveness and greater adoption of the more modern methods is offset by irregularity in their use as well as by misuse. Thus, for example, one-third of the aborted women who used the diaphragm as a contraceptive became pregnant when they failed to use it, an additional third because they applied it incorrectly, and 13 per cent because of a defect in the appliance.

Another frequently used means of prevention is the condom, which, according to the data of the TCS study, was used in 22 per cent of the cases. Its use among childbearing and aborted women with children increased from 17 per cent in 1960 to 25 per cent in 1964. In one-third of the aborted cases among women relying on this method, conception was due to negligence in its use, and an additional one-third to a defect in the condom.

The legal rules also contain provisions intended to protect health by restricting the number of permissions in a given time inter-

TABLE 2

DISTRIBUTION BY CAUSE OF PREGNANCY OF  
SURGICALLY ABORTED WOMEN WHO  
WERE REGULAR CONTRACEPTORS  
(Per Cent)

Cause of Pregnancy	October, 1960	April, 1964
Negligence in prevention.....	62.8	43.3
Improper use of contraceptives....	20.5	27.3
Defective contraceptive.....	4.1	13.3
Other.....	2.3	3.2
Unknown ("She does not know")..	10.3	12.7
Total .....	100.0 <sup>a</sup>	100.0 <sup>a</sup>
Total number of women.....	7,058	7,827

<sup>a</sup>The ratio of women applying prevention to all surgically aborted women was 51.6% in 1960 and 53.6% in 1964.

TABLE 3

DISTRIBUTION OF THREE GROUPS OF WOMEN BY  
MAJOR METHOD OF BIRTH PREVENTION  
(Per Cent)

Method of Prevention	Data of the TCS Study (women 15-49 yrs. old)	Childbearing and Aborted	
		October, 1960, Survey	April, 1964, Survey
Coitus interruptus.....	52	54	44
Ogino-Knaus.....	7	2	2
Condom.....	22	17	25
Diaphragm.....	4	4	12
Timidon jelly.....	1	6	7
Vaginal irrigation.....	8	8	6
Other and unknown.....	6	9	4
Total.....	100	100	100
Total number of women	3,821	8,908	10,678

val. Thus, the Czechoslovak, Bulgarian, and Soviet rules permit an induced abortion only if more than six months have elapsed since the previous induced abortion.

In spite of these stipulations, abortions occur at rather frequent intervals. In the Soviet Union for instance, according to the data of the investigation of 1958-59, 16 per cent of the aborting women had more than one induced abortion within a year; in Hungary 22 per cent of the women surgically aborted in April, 1964, had also had an induced abortion in 1963. The latter proportion was 41 per cent among those who had had an induced abortion even earlier (54 per cent of the aborting women were among this group).

TABLE 4

SURGICALLY ABORTED WOMEN BY ABORTION ORDER  
(Per Cent)

Abortion Order	October, 1960	April, 1964
1.....	47.1	40.0
2.....	27.4	28.6
3.....	13.6	15.5
4.....	6.7	8.4
5 and more.....	5.2	7.5
Total.....	100.0	100.0
Total number of women...	13,675	14,640

As shown in Table 4, in Hungary the aborting women experiencing their third or higher order abortion increased from 25.5 per cent in 1960 to 31.4 per cent in 1964. Although these data have not been standardized for age or duration of marriage, they suggest an increasing tendency among women who resort to this method of birth limitation in the first place to continue to rely on its use. Fifth and higher order abortions accounted for 7.5 per cent of surgical induced abortions in 1964 compared with 5.2 per cent in 1960. Moreover, among the women aborting for the fifth or more time in 1964, 52 per cent had also had an induced abortion the year before.

Induced abortion rates in Hungary are highest among women with two children, but the data presented in Table 5 show a pronounced increase between 1960 and 1964 in resort to induced abortion by childless women and women with only one child. Among childless married women, 54 per 1,000 were found in 1964 to have experienced an induced abortion compared with 33 in 1960, an increase of 64 per cent. Rates among women with only one child are now almost as high as among women with two children, 97 compared with 101, respectively, among 1,000 married women, while the differential between one-and two-child married women in 1960 was 85 to 101 per 1,000 such women. In general, after two children, the frequency of abortions tends to decrease. These findings are generally characteristic of the other countries, although in Bulgaria there are no great differences in the proportion of abortions among those with different numbers of children except that it is relatively higher among childless women.

In the Soviet Union among surgically aborted women the proportion of those who are pregnant for the first time accounts for

TABLE 5

INDUCED ABORTION RATES OF WOMEN AGED 15-49  
WITH SPECIFIED NUMBER OF CHILDREN  
(Per 1,000)

Number of Children	All Women		Married Women	
	1960	1964	1960	1964
0.....	23	35	33	54
1.....	80	94	85	97
2.....	95	98	101	101
3 or more.....	85	89	90	91
Total.....	65	74	83	91
Total number of women....	162,160	184,367	142,260	160,101

4-6 per cent; according to the number of children the greatest proportion of women with one child can be found in the towns, and the greatest proportion with two children in the villages; the proportion of the childless is 10 per cent and 6 per cent, respectively. (In Hungary, of surgically aborted women in 1964, the proportion of childless was 16 per cent, of whom 58 per cent were unmarried.)

Number of children is, of course, a link between age of woman and frequency of abortion. According to the Hungarian data, the relatively highest abortion rates are found among women 25-29 years old. By 1964 this age group had experienced 145 induced abortions per 1,000 total women and 156 per 1,000 married women. Rates are also high among the 20-24 and 30-34 age groups, as can be seen in Table 6. According to the Czechoslovak data of 1962, the highest frequency of abortions has been experienced among women aged 25-34. All these data indicate the insistence of women still in the prime reproductive years to limit their families to one or two children.

The increasing trend of induced abortions among young unmarried women is especially noteworthy. In 1964, when 32 per 1,000 women aged 15-19 experienced induced abortion, nearly 7,000 or 2 per cent of the unmarried women under age 20 reported to the committees for permission to interrupt pregnancy. Among married women of similar age the proportion was 12 per cent. From this, it is clear that lack of information and thus lack of knowledge of means of prevention cause a great number of pregnancies and therefore are responsible for a great number of induced abortions among young girls. (It should be noted that although women under 18 years of

TABLE 6

INDUCED ABORTION RATES BY AGE  
(Per 1,000 Women in Specified Age Group)

Age Group	All Women		Married Women	
	1960	1964	1960	1964
15-19.....	22.5	31.6	89.2	120.1
20-24.....	102.3	121.1	130.8	151.4
25-29.....	126.9	144.8	137.7	156.0
30-34.....	101.7	116.7	109.8	123.7
35-39.....	63.5	65.7	64.9	71.1
40-49.....	12.0	14.0	14.7	15.9
15-49.....	65.2	74.3	82.9	91.2
Total number of women....	162,160	184,382	146,260	160,509

age are allowed to apply to the abortion committees, parental permission is indispensable for the performance of an induced abortion in a hospital.)

In permitting induced abortion, the laws not only protect the freedom of women but ensure that the operations are performed under proper medical and sanitary conditions. Before the legalization of induced abortion, the incidence of illegal abortions was very high, estimated at about 100,000 per year in Hungary and between 100,000 and 300,000 in Czechoslovakia in the early 1950's. Moreover, because of their clandestine and illicit nature, these induced abortions were often performed, nor by doctors under antiseptic conditions, but by midwives and even laymen, as a result of which the mortality rate was unnecessarily high. In Hungary, for example, some 80 to 100 women died annually as a result of illegal abortion.

Although the legalization of induced abortion now ensures its performance under proper medical auspices, this still remains an undesirable method of birth limitation. Repeated induced abortion endangers the health of the woman and children born subsequently. There is a correlation, for example, between the frequency of induced abortion and the proportion of premature births (see Table 7). Defining as premature a newborn child weighing under 2,500 grams, we find the per cent of premature births increases with an increase in the mother's induced abortion history. According to birth data from April, 1964, the ratio of premature births among women who had no induced abortion was 10 per cent; the same figure was 14 per cent among those with one induced abortion, 16 per cent after two induced abortions, and 21

per cent after three or more induced abortions.

TABLE 7

PREMATURE LIVE BIRTHS (UNDER 2,500 gm.)  
BY NUMBER OF INDUCED ABORTIONS OF MOTHER  
(Per Cent)

Previous Induced Abortions	Premature Live Births	
	October, 1960	April, 1964
0.....	8.0	10.1
1.....	11.1	14.4
2.....	12.2	16.0
3 or more.....	13.9	20.5
Total.....	8.3	11.0
Total number of women...	766	1,163

Thus, the impact of premature birth on infant mortality and on the mental and physical development of the child is connected with the frequency of abortions. These relationships have not yet been studied in detail, but it is clear that induced abortion plays an important role in the development of a later child. It might be noted that in Budapest, where the frequency of induced abortion is highest, the frequency of premature births is very high.

Mortality resulting from induced abortion is now very low. In Hungary, 20-25 women

die yearly of abortion, but most of these cases involve spontaneous abortion or abortion performed without permission. The number of deaths resulting from permitted abortions is only 2 or 3 annually. The complications of induced abortion are, however, more significant. According to the data of 1964, shown in Table 8, 1.3 per 1,000 experienced perforation of the uterus; 8.5, feverish conditions; and 16.4, after-hemorrhage. The low mortality suggests that these complications are successfully treated, but the after-effects of these complications cannot be followed up. At any rate, their frequency indicates the dangers of induced abortion.

In the countries for which data are available, the number of registered abortions increased immediately under the impact of legalization and continued to rise. Rates, however, may have reached a plateau in Poland and since 1961 have been declining in Czechoslovakia. As shown in Table 9, Hungary has the highest rate, 91 induced abortions per 1,000 married women aged 15-49 in 1964, a level that exceeded live births by 40 per cent. Among the other European socialist countries, induced abortions are still high in Bulgaria, 41 per 1,000 women of childbearing ages, but are relatively lower (about 20) in Czechoslovakia, Poland, and Yugoslavia. (For birth rates, see Table 10.)

TABLE 8

COMPLICATIONS OF PERMITTED INDUCED ABORTIONS, 1964

Complication	Number of Cases	Number per 1,000 Induced Abortions
Perforation of the uterus.....	232	1.3
Feverish conditions (genital).....	691	3.7
After-hemorrhage.....	1,141	6.2
Repeated hospital treatment within 4 weeks after abortion:		
Due to fever.....	872	4.7
Due to hemorrhage.....	1,879	10.2

TABLE 9  
LEGALIZED INDUCED ABORTION RATES IN SEVERAL COUNTRIES, 1954-63

Year	Rates per 1,000 Women Aged 15-49					Rates per 100 Live Births				
	Bulga- ria	Czecho- slova- kia	Hun- gary	Po- land	Yugo- slavia	Bulga- ria	Czecho- slova- kia	Hun- gary	Po- land	Yugo- slavia
1954.....	1	1	6	—	—	1	1	7	—	—
1955.....	—	1	14	0	—	—	1	17	0	—
1956.....	—	1	33	3	—	—	1	43	2	—
1957.....	16	2	49	5	—	22	3	74	5	—
1958.....	19	19	58	6	—	27	26	92	6	—
1959.....	23	25	61	11	11	33	36	101	11	13
1960.....	27	28	65	21	16	39	41	111	23	18
1961.....	34	29	69	20	22	50	43	121	23	25
1962.....	38	28	66	20	—	57	41	126	23	—
1963.....	41	22	70	—	—	63	30	131	—	—
1964.....	—	17	74	—	—	—	29	140	—	—

To sum up, one can state that the legalization of induced abortions influences considerably the number of live births and is thus an important means of family planning. Induced abortion, however, cannot be viewed as a proper and suitable means of birth control. It can be regarded only as an interim, auxiliary method pending the adoption by the population of proper means of birth prevention. Under present circumstances, inasmuch as

TABLE 10  
LIVE BIRTH RATES PER 1,000 POPULATION IN EUROPEAN SOCIALIST COUNTRIES, 1954-64

Country	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964
Bulgaria.....	20.2	20.1	19.5	18.4	17.9	17.6	17.8	17.4	16.7	16.4	16.1
Czechoslovakia.....	20.6	20.3	19.8	18.9	17.4	16.0	15.9	15.8	15.7	16.9	17.1
German Democratic Republic.....	16.6	16.7	16.2	15.9	15.6	16.9	17.0	17.0	17.4	17.6	17.6
Hungary.....	23.0	21.4	19.5	17.0	16.0	15.2	14.7	14.0	12.9	13.1	13.0
Poland.....	29.1	29.1	28.0	27.6	26.3	24.7	22.6	20.9	19.6	19.0	18.1
Romania.....	24.8	25.6	24.2	22.9	21.6	20.2	19.1	17.5	16.2	15.7	15.2
USSR.....	26.6	25.7	25.2	25.4	25.3	25.0	24.9	23.8	22.4	21.2	19.7
Yugoslavia.....	28.5	26.8	25.9	23.7	24.0	23.3	23.5	22.7	21.9	21.4	20.8

contraceptive methods are still primitive in most European socialist countries, induced abortion is applied as one of the chief means of birth control. Its deleterious effect on health is sufficient reason to change the present-day situation. This, however, cannot be achieved by administrative measures prohibiting induced abortions but by disseminating knowledge of modern contraceptive methods, making supplies readily available, and teaching effective use. The health policy of the individual countries now takes cognizance of these needs so that women may prevent conception rather than interrupt unwanted pregnancies.

## APPENDIX "QQ"

## BRIEF

Submitted by the Catholic Hospital  
Association of Canada  
to the Standing Committee of the  
House of Commons on Health and Welfare

ON THE MATTER OF  
ABORTION

February 1968

312, Daly  
Ottawa 2.

The CATHOLIC HOSPITAL ASSOCIATION OF CANADA, representing the administrators of some 300 hospitals (comprising about 35 per cent of the total hospital services available to the Canadian public) recognizes the need to CLARIFY the present text of the Criminal Code on abortion, while remaining averse to proposals to "LIBERALIZE" it.

But BEFORE ANY CHANGES OF ANY KIND are contemplated, we urge that the whole question be thoroughly investigated and that better means of investigation be adopted than those at present being used.

Our brief is confined to an ADMINISTRATIVE question, that is, the practical problem that would confront hospitals if, without PRIOR consideration of all possible consequences, Parliament moved too hastily to legalize a practice considered morally repugnant to a major part of the Canadian population.

As the matter stands at present, Catholic hospital administrators are guided by norms of conduct which preclude their being involved in the actual business of procuring abortions and, in consequence, of providing any buildings, equipment and personnel under their administration for such a purpose.

We note that there is no question of their being obliged to change their present norms of conduct. ON THE CONTRARY, proponents of a "liberalized" abortion law admit that it should exempt those who object to being involved in procuring abortions.

However, we fear that any such exemption clause would be a "pseudo-solution" in that, far from making the law agreeable to all concerned, it would only be another source of division for our Canadian society. Hospitals would be divided into "consenting" and "dissenting" groups. The former would have to bear the whole load of a new class of clients (which, as the experience of other countries shows, could build up in a few years into hundreds of thousands) on top of their already overtaxed hospital services. They will no doubt come to resent being left with what doctors admit to be "distasteful" work. Relations will be strained between the two groups of hospitals. This will have repercussions on the communities they jointly serve and provide another severe cause of dissension at a time when Canadian unity is already sorely menaced.

We, therefore, urge that the full implications of any such "solution by exemption" be studied BEFORE, NOT AFTER, having recourse to it.

This and other problems considered in other briefs are of a gravity and complexity such that we feel that the only adequate means to study the whole question with the thoroughness it deserves would be a Royal Commission.

Respectfully submitted on behalf of the Catholic Hospital Association of Canada and its Board of Directors to the Parliamentary Committee on Health and Welfare by:

Maurice Dussault, O.M.I.  
Executive Director.

Date: February 8, 1968.

The purpose of this brief is solely to recommend that the fullest possible investigation be made into the matter of abortion, Nos. 1-6

I Catholic hospital administrators are guided by norms of conduct which preclude their supplying means for procuring abortions, Nos. 7-10

II We urge that all pertinent facts and statistics on abortion be obtained before even contemplating the possibility of changes to the law, Nos. 11-14

III We fear the implications of applying the principle of "conscientious objection" to our situation in Canada because it will be just another element of division, Nos. 15-25

IV We urge that the gravity and complexity of this question require a better method of enquiry than the limited resources of a Parliamentary committee, Nos. 26-29

WE THEREFORE RECOMMEND that your Committee espouse the proposal that nothing less than a Royal Commission can be regarded as an appropriate means of enquiry in this case, No. 30

The purpose of this brief is solely to recommend that the fullest possible investigation be made into the matter of abortion

1. In conveying to your Committee the aversion of the Catholic Hospital Association of Canada to any measures designed to broaden the legal grounds for abortion, we do not wish to imply that the existing text of the Criminal Code on this subject should remain as it is. We admit that it needs to be clarified.

2. The term "abortion" in this brief refers only to the act of directly and deliberately killing a human foetus in the hope that, in consequence, such killing will benefit the mother of the foetus or society. We do not refer to what is sometimes called "indirect abortion" which results concomitantly and unavoidably from a medical intervention primarily directed at achieving a purpose other than the death of the foetus.

3. Many of our 300 hospitals which together form a considerable part of the total health services of the nation, are the sole hospital of their particular community.

4. The concern of Catholic hospital administrators for all forms of suffering, physical and moral, is a sacred heritage handed on to them by predecessors who began the task over 300 years ago of covering the huge extent of

Canada, from East to West and to the far North, with well constructed, well equipped and competently staffed hospitals. For it happened that, in the division of the tasks of building our nation, that of founding and developing of our Canadian hospital system was undertaken almost entirely by Catholic hospitaliers.

5. Today, the concern for suffering which we share with all hospitals, prevents us from being indifferent to the plight of women who feel so menaced by what are called "unwanted pregnancies" that they are ready to consent to the desperate measure of abortion. They have our sympathy quite as much as that other category of persons who are also said to be very numerous and who are also inclined to resort to the taking of life (their own) as the sole means of escape from what seem to them to be intolerable difficulties. We join others in urging that the public policy, dictated by compassion, should be: these women must not be left to face their difficulties alone. The resources of the nation must be brought to their aid. But first, there must be a profound examination of the entire problem and its root causes.

6. The sole recommendation of this brief, therefore, is that no time should be lost in initiating the fullest possible investigation of the problem of abortion, especially in the context of our Canadian society.

## I

Catholic hospital administrators are guided by norms of conduct which preclude their being involved in procuring abortions by supplying the necessary means

7. No arguments have as yet come to our attention which convince us that the principle of the inviolability of innocent life should no longer be invoked in favour of human offspring conceived, but not yet born.

8. We do not see why the very defencelessness and utter dependency of human beings in the prenatal stage of development should not constitute a special title to our compassionate protection as well as that of the law.

9. We know of no satisfactory arguments, nor even of a consensus in the medical profession generally, for the opinion that abortion, except for the rare instances when desperate measures are called for to save the life of a pregnant woman, can truly be

regarded as a therapeutic means to preserve her physical and mental welfare.

10. *Conclusion:* Our administrative policy is to object to providing the means to procure abortions, such as the buildings, equipment and personnel under our direction.

## II

We urge that all pertinent facts and statistics on abortion be obtained before even contemplating the possibility of changes to the law

11. Administrators must be guided, not only by norms of administrative conduct, but also by factual considerations. In this connection, we understand that there is considerable dissatisfaction in Great Britain over the rapidity with which new abortion legislation was put through before even the facts of the so-called "illegal abortion" problem had been established. This dissatisfaction is evidenced by a petition that was circulated (by a committee of non-Catholics) that a Royal Commission enquire into the matter before it was legislated upon, a petition which is said to have obtained half a million signatures. An article written by a British member of parliament, Norman St. John-Stevan, published in the periodical *AMERICA* (Dec. 9/67) states:

The first point that can be made is that the English debate shows the folly of rushing into legislation without adequate investigation of the facts and discussion of the issues. It became clear after the abortion bill had been introduced that no one had any reliable information about the incidence of illegal abortion, and that the statistics about legal abortion were also inadequate. Many estimates were offered, in the press and elsewhere of the number of illegal abortions taking place each year, the most popular figures ranging between 50,000 and 100,000, but on examination these turned out to be nothing better than guesses. Newspapers constantly used the figure of 100,000 but they were merely reproducing each other's estimates. The source of this figure appears to have been propaganda published by the Abortion Law Reform Association. The only scientific investigation carried out, that by Dr. C. B. Goodhart, based on a comparison of the maternal mortality rates in and outside hospitals, showed that the 100,000 figure was in all probability a fantastic exaggeration. Dr. Goodhart, in an article "The Frequency

of Illegal Abortion", published in *Eugenics Review* for January, 1964, suggested that the figure was much more likely to be in the region of 10,000 a year.

12. We note that proponents of liberalized abortion in Canada urge it as a remedy for a situation caused by illegal abortions of which they give estimates varying from 100,000 to 300,000 annually. Yet 100,000 is a figure objected to as fantastic for Great Britain whose population is  $2\frac{1}{2}$  times greater than that of Canada.

13. But even admitting, for the sake of argument, that the incidence of illegal abortions in Canada is such that we should seriously consider legalizing abortion, we do not know of any statistical information to indicate that such a measure would in fact be a remedy. We know that measures far more radical than that being proposed for Canada have been adopted in countries like Japan, USSR, Scandinavia, Poland, Hungary, Roumania, Bulgaria, etc., as far back as 10, 15, even 20 years. It seems strange to us that it should have been announced in the press that the presentation of a bill legalizing abortion would be given "high priority" in the current session of Parliament before any information is available to our legislators regarding the experience acquired in countries which have already had legalized abortion for many years. We find it stranger still that this Committee should have already recommended to Parliament, before it has finished taking evidence, that the grounds for abortion be extended in Canada.

14. *Conclusion:* If a hospital administrator neglected to obtain all pertinent facts and statistics about a given situation with which he was confronted, before proceeding to the question of what changes in policy that situation might require, his hospital would soon be in a mess. How much more Parliament should provide itself with complete information on such a grave matter as abortion before even thinking in terms of legalizing it.

## III

We fear the implications of applying the principle of "conscientious objection" to our situation in Canada because it will be just another element of division

15. We note that it is the intent of proponents of new abortion laws to remove abortion from the category of being a criminal

offense but at the same time to recognize it as an act morally repugnant to a segment of the population.

16. This intent is manifest in Section 4 of Bill C-136; in the bill presented to the British House of Parliament, copy of which has been inserted in the reports of the proceedings of this Committee; in the actual law passed by the same British House of Parliament; in what has been called the "model law" of the American Law Institute; and in the actual law—the first in the U.S.—passed by the State of Colorado, copy of which is also inserted in the reports of the proceedings of this Committee.

17. The proponents of all these projects of law, and of the two actual enactments of law in Great Britain and Colorado, evidently believe that those who object to the provisions of the law are entitled to invoke the principle of "conscientious objection", a principle established in regard to those who are averse to the taking of life "in casu belli".

18. The principle of conscientious objection was established at a time when it applied to a comparatively small group of persons, whose attitude could be considered to be of marginal concern and even to be somewhat eccentric. Abortion, however, is a problem of a quite different kind, and of vastly different dimensions, especially in Canada where the objectors are certainly going to be a major part of the population.

19. Section 4 of Bill C-136 is practically word for word the same as Section 4 of the bill presented to the British House of Commons, which reads as follows:

No doctor, nurse, hospital employee nor any other person shall be under any duty, nor shall they in any circumstance be required to participate in any operation authorized by this Act to which they have a conscientious objection, provided that in any civil or criminal action the burden of proof of conscientious objection shall rest on the person claiming it.

20. However, in the Abortion Act of 1967, actually passed by the British Parliament, the exemption clause had been somewhat modified:

...no person shall be under any duty, whether by contract or by any statutory or other legal requirement, to participate in any treatment authorized by this Act to which he has a conscientious objection.

21. Whether or not it is proposed that a Canadian law should incorporate one or the other of these formulas as a clause for conscientious objection, it must not be overlooked that our sociological situation is not the same as that of Great Britain. The situation in the United States is one which better approximates that of Canada since Christian institutions have contributed enormously from the beginnings of both countries to building up their respective hospital systems. Today, as in Canada, there are a great number of U.S. hospitals under religious administration. This situation is reflected in the so-called "model law" of the American Law Institute, and specifically in the Colorado State law, which has been enacted. Section 4 of the amendment 40-50-52 to a previous Colorado law states:

*Failure to comply:* Nothing herein shall require a hospital to admit any patient under the provisions of this act for the purpose of performing an abortion, nor shall any hospital be required to appoint a special hospital board as defined in this act.

22. If the hospitals of our Association were exempt from the provisions of a similar Canadian law, many of which hospitals are the sole available in their communities and all of which form a considerable part of the Canadian hospital system as a whole, this would obviously create something of a hiatus and place our hospitals in an invidious position. Many people (perhaps more than 50 per cent) in Canada would regard the hospitals who remained aloof as superior or nobler institutions because they would think them to be showing a greater respect for the sacredness of human life by the fact of extending this respect to the prenatal stage of development. This would be a distinction that the hospitals of our Association would not be happy to enjoy as it might well prove to be a source of dissension and create a certain animus between us and the other group which would be involved in the business of procuring abortions.

23. If great numbers of women are encouraged by the legalizing of abortion to take advantage of it—a phenomenon which seems to happen wherever liberal abortion laws are introduced—this will tax the facilities of our hospital system in Canada, already overburdened, and expecting to be further burdened by the added load of Medicare. The

abstention of the hospitals of our Association may result in the other hospitals being largely devoted to what is frankly regarded by doctors as a "distasteful" kind of work, with less time and facilities for the more satisfying or life-giving aspects of hospital work. This kind of division of labour, with the consenting hospitals getting all the abortion work and the dissenting hospitals getting nothing but the satisfying work, would quite likely lead to an ever deepening rift between the two groups of hospitals, extending to the communities they jointly serve.

24. It would seem advisable to remember that Canada is already in the throes of a severe crisis over linguistic and cultural divisions, threatening our very existence as a nation. This does not seem to be an opportune time to introduce another cause of deep dissension by moving rapidly towards legalizing a practice which a large section of Canadian society—perhaps a majority—abhor as gravely immoral and which, after all, is being imported mostly from countries whose philosophy of life is alien to that generally accepted by Canadians.

25. *Conclusion:* We believe that careful cognizance should be taken of the grave implications of introducing a practice which will force our population abruptly into taking sides "pro" and "con", a division which will be consummated, not resolved, by the principle of conscientious objection. If the proponents of abortion hope that eventually the nation will become united on this issue, then the possible grounds of such unity should be sought BEFORE, NOT AFTER precipitating the division.

#### IV

We urge that the gravity and complexity of this question require a better method of enquiry than the limited resources of a Parliamentary committee

26. Our conclusions as hospital administrators prompt us to urge that the question of abortion be not moved into preliminary legislative stages until the Canadian public as a whole has had an ample opportunity, and has been provided with the best means, to realize all the grave and complex factors involved. This has been the policy followed in regard to our linguistic and cultural divisions. The question of abortion should be regarded as sufficiently serious to merit the same consideration.

27. A public enquiry of the kind required by the manifold and difficult aspects of the question of abortion is, we respectfully submit, beyond the possibilities of a Parliamentary committee. Even the statistical aspect of the matter cannot be said to have been satisfactorily dealt with so far in the meetings of this Committee. It must ask itself, is it within its possibilities, or even within its power, to obtain figures a) of the actual problem of illegal abortions in Canada; b) of the statistical probabilities, determined by the experience of other countries where legalized abortion has long been in practice, that its proposed law will be a remedy to the problem of illegal abortions.

28. We note that the brief of the National Council of Women of Canada shows a preference for a Royal Commission of enquiry as the appropriate means to obtain knowledge of all pertinent facts and aspects of this matter. This we consider not only as an excellent proposal, but indispensable, given that the situation in Canada greatly differs from that of pro-abortion countries in which the practice of abortion has taken root, especially the Communist countries whose philosophy of government and life is not that of Canadians and may be the real reason why such countries see nothing repugnant in abortion.

29. We are sure that there are a great many Canadians of various faiths and philosophies who, like ourselves, will be troubled to the very depths of their civic conscience, by the prospect of a serious breach of the principle of the inviolability of innocent life arising from the promotion of legalized abortion. We can well understand how little this principle means to most of the countries which have legalized abortion, since their ideologies are based on the superiority of the state over the individual and the right to life is, of course, a personal right of the individual. In any event, surely all Canadians will feel that they will have a far greater likelihood of obtaining better guidance for their consciences were such a method of enquiry as a Royal Commission to be resorted to in a question which, after all, is literally one of life and death, not only for the individual, but for any given nation.

30. *Recommendation:* We therefore ask this Committee to espouse the proposal of a Royal Commission. Only in this way, we would add, would the laborious efforts of this Committee

be brought to a satisfactory conclusion since the work it will have accomplished would provide a useful start for the work of a non-partisan and more judicial body such as a Royal Commission, armed with the means and authority to go deep into the roots of the

question, and to make an exhaustive effort to establish the factual or statistical aspects in a non-partisan manner, not only in Canada but in regard to the countries whose example we are being urged to emulate, without knowing just what their example consists of.

## APPENDIX TO BRIEF

Excerpts of the Moral Code of the Catholic Hospital Association of Canada concerning the Procedures Involving Serious Danger to, or Destruction of, Life.

Art. 12. The moral principles applied in this Chapter 2 are the following: a) the direct killing of an innocent person, even at his own request, is always morally wrong; b) any procedure whose sole immediate effect is the death of a human being is a direct murder; c) procedures involving danger to life, or even indirectly causing death, are permissible when there is a proportionate reason; d) life is taken indirectly when death is the accidental, or even unavoidable result of a procedure whose immediate effect is altogether different, v.g. the removal of a diseased organ; e) every unborn child must be considered from the moment of its conception, as a human being endowed with all corresponding rights.

Art. 13. Euthanasia in all its forms is forbidden. Neglecting to take the ordinary means of preserving life is equivalent to euthanasia.

Art. 14. Post-mortem examinations must not be begun until real death is morally certain.

Art. 15. Craniotomy performed on a living foetus is forbidden, but operations designed to increase the infant's chance to live (e.g. aspiration for hydrocephalus) are permitted even before delivery when such operations are required for successful delivery.

Art. 16. Direct abortion is never permitted, even when the ultimate purpose is to save the life of the mother. There can be no condition of pregnancy constituting an exception to this prohibition.

Art. 17. Operations, medications and treatments during pregnancy, which have for their immediate purpose the cure of a proportionately serious pathological condition of the mother, are permitted, even though they terminate pregnancy, on condition, however, that they cannot be postponed until the foetus is viable without danger to the mother.

Art. 18. Hysterectomy during pregnancy, even before the foetus is viable, is permitted when directed to the removal of a pathological condition of the mother which is distinct

from the pregnancy, and which is of such a serious nature that the operation cannot be safely postponed till the foetus is viable.

Art. 19. In case of extra-uterine pregnancy, the affected part (v.g. the ovary or the Fallopian tube) may be removed, even though the death of the foetus is thus indirectly brought about, provided the operation cannot be postponed without notably increasing the danger to the mother.

Art. 20. Radiation therapy of the mother's reproductive organs is permitted during pregnancy only when necessary to suppress a dangerous pathological condition.

Art. 21. In all cases of treatments or interventions dangerous to the life of a foetus, the physician, by tests and even consultations, must ascertain whether the woman is pregnant.

Art. 22. For a very serious medical reason, labor may be induced immediately after the foetus is viable. In a properly equipped hospital the foetus may sometimes be considered as viable after 26 weeks (6 calendar months), otherwise, 28 weeks are required.

Art. 23. Before the viability of a foetus, the curettage of a pregnant uterus is forbidden, unless the physician has sure reasons for believing the foetus already dead or detached. Procedures distinct from those designed to empty the uterus, and whose principal aim it to stop hemorrhages, are permitted in so far as necessary, even though they risk terminating the pregnancy. In this case, abortion would be indirect.

Art. 24. Caesarean section for the removal of a viable foetus is permitted, even at some risk to the mother, when necessary for a successful delivery. It is likewise permitted, even at some risk to the child, when necessary for the safety of the mother.

Association des Hôpitaux Catholiques  
du Canada

Catholic Hospital Association of Canada  
312, Daly  
Ottawa 2, Ont.



OFFICIAL REPORT OF MINUTES  
OF  
PROCEEDINGS AND EVIDENCE

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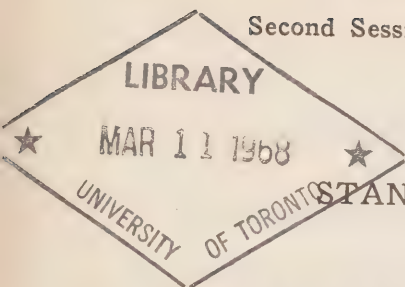
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ALISTAIR FRASER,  
*The Clerk of the House*

HOUSE OF COMMONS

Second Session—Twenty-seventh Parliament

1967-68



STANDING COMMITTEE

ON

# HEALTH AND WELFARE

*Chairman:* Mr. HARRY C. HARLEY

## MINUTES OF PROCEEDINGS AND EVIDENCE

No. 20

TUESDAY, FEBRUARY 13, 1968

Respecting the subject-matters of

Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

### WITNESSES:

*Representing The Canadian Welfare Council:* Mr. C. Norman Knight, Chairman of the Committee on Abortion Study; Dr. T. Grygier, Director, Centre of Criminology, University of Ottawa; Dr. J. C. Whyte, M.D., Head of the Department of Obstetrics and Gynecology, Ottawa Civic Hospital; Mrs. Valérie Dufour; and Mr. George Caldwell, all of Ottawa.

*Also:* Mrs. Chris Lane, Mrs. Helen Levine, Mrs. Sue Findlay, Miss Louise Lemieux, Mrs. Marjorie Harris, and Mrs. Heather Coloren, all of Ottawa.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1968

STANDING COMMITTEE ON HEALTH AND WELFARE

*Chairman:* Mr. Harry C. Harley

*Vice-Chairman:* Mr. Gaston Isabelle

and

Mr. Allmand	Mr. Forrestall	Mr. Orange
Mr. Ballard	Mr. Howe ( <i>Wellington-Huron</i> )	Mrs. Rideout
Mr. Brand	Mr. Knowles	Mr. Rochon
Mr. Brown	Mr. Laverdière	Mr. Rock
Mr. Cameron	Mr. MacDonald ( <i>Prince</i> )	Mr. Rynard
( <i>High Park</i> )	Mrs. MacInnis ( <i>Van-couver-Kingsway</i> )	Mr. Simard
Mr. Chatterton	Mr. Matte	Mr. Stanbury—(24).
Mr. Cowan		
Mr. Enns		

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

TUESDAY, February 13, 1968.  
(23)

The Standing Committee on Health and Welfare met this day at 11.20 o'clock a.m. The Chairman, Mr. Harry C. Harley, presided.

*Members present:* Mrs. MacInnis, Messrs. Allmand, Ballard, Chatterton, Enns, Forrestall, Harley, Howe (*Wellington-Huron*), MacDonald (*Prince*), Matte, Orange, Rynard—(12).

*Other Member present:* Mr. Cashin.

*In attendance: Representing The Canadian Welfare Council:* Mr. C. Norman Knight, Chairman of the Committee on Abortion study; Dr. T. Grygier, Director of the Centre of Criminology, University of Ottawa; Dr. J. C. Whyte, Head of Obstetrics and Gynecology of the Ottawa Civic Hospital; Mrs. Valérie Dufour and Mr. George Caldwell, all of Ottawa.

*Also in attendance:* Mrs. Chris Lane, Mrs. Helen Levine, Mrs. Sue Findlay, Miss Louise Lemieux, Mrs. Marjorie Harris and Mrs. Heather Coloren, all of Ottawa.

Before the examination of the witnesses, the Chairman read into the record a letter received from Mrs. Mary Cooper, Chairman of the Ottawa Committee of the Emergency Organization for the Defence of the Unborn Children.

*Agreed,—*That the brief on abortion submitted by the British Columbia Association of Social Workers be printed as an appendix to this day's proceedings. (*See Appendix "RR"*)

The Chairman introduced Mr. Knight who, in turn, introduced the other representatives of the Canadian Welfare Council. Mr. Knight gave the background of the Council and the highlights of the brief.

The Chairman introduced Mrs. Lane who introduced the members of her group. Mrs. Levine explained the purpose of their brief.

*Agreed,—*That the briefs of the Canadian Welfare Council and of the above mentioned group of ladies be printed as appendices to this day's proceedings. (*See Appendices "SS" and "TT"*)

The witnesses were severally questioned.

On behalf of the Committee, the Chairman thanked the witnesses for their presentation and at 1.23 p.m. the Committee adjourned to 11 o'clock a.m. Thursday, February 15.

Gabrielle Savard,  
*Clerk of the Committee.*



## EVIDENCE

*(Recorded by Electronic Apparatus)*

**Tuesday, February 13, 1968**

• 1123

**The Chairman:** Ladies and gentlemen, I call the meeting to order.

Before we proceed to the examination of the witnesses before us today, I will read into the record a letter I have received from Mrs. Cooper, Chairman, Ottawa Committee for the Defence of Unborn Children:

Dear Dr. Harley:

This will formally notify your committee that last week we submitted to the Prime Minister petitions signed by 12,476 persons opposed to any widening of the present grounds for legal abortion. Most of these were collected by our Toronto affiliate, the Emergency Organization for the Defence of Unborn Children.

These brought to 25,080 the number of signatures submitted to the Government by our two groups. Attached for your committee's records is a copy of the letter which accompanied the petitions last week.

For the record, too, I wish to answer a false and grossly unfair accusation against our organization made last week by a witness before your committee. A United Church spokesman, the Rev. J. R. Hord, then described us as mostly a group of men, without compassion for mothers.

Here in Ottawa more than 80 per cent of our members are both women and mothers. In Toronto, also, our members are largely women, and women dominate the executive.

I myself am the mother of six children. Our Toronto president, Mrs. Olive Heron, is the mother of five. We therefore feel even better qualified than Mr. Hord to understand the problems of pregnant women and mothers.

We reject Mr. Hord's opinion that compassion for mothers must exclude an equal concern for the lives of unborn children.

Yours sincerely,  
(Mrs.) Mary Cooper,  
Chairman,  
Ottawa Committee for the  
Defence of Unborn Children

• 1125

Some time ago the Committee received a brief from the British Columbia Association of Social Workers, copies of which have been distributed to members. I suggest that it become part of the record.

Is it agreed that the brief be printed as an appendix to today's proceedings?

**Some hon. Members:** Agreed.

**The Chairman:** There are two groups before the Committee today. The first is the Canadian Welfare Council, and the second is a group of ladies who are appearing as individuals and who represent no particular organization. They are from the City of Ottawa.

I will first call on Mr. Knight who is leading the delegation from the Canadian Welfare Council. Mr. Knight?

**Mr. C. Norman Knight (Chairman of the Committee on Abortion Study, Canadian Welfare Council):** Thank you, Mr. Chairman. Initially, I should say that I am a member of the Board of Governors of the Canadian Welfare Council and chairman of the committee of the Board which was designated to prepare the statement on abortion which the committee has received. I am a social worker by profession.

The other members of the committee with me are, on my right, Dr. Grygier of Ottawa, Director of the Centre of Criminology of the University of Ottawa; his special field is criminological policy and research. Next to him is Dr. White, also of Ottawa, who is Chairman of the Department of Obstetrics and Gynaecology at the Civic Hospital, and

Clinical Professor of the same subject at the University of Ottawa. Finally, the most decorative member of the team, Mrs. Valerie Dufour, who represents the interests and concern of young people and the younger married. We thought it would be useful, as well as decorative, to have her along.

From your past proceedings, Mr. Chairman, I have the impression that this Committee is interested in knowing exactly who is represented by the delegations who appear before it. Many of you are familiar with the work of the Canadian Welfare Council and I wish merely to make a few brief remarks relative to the present situation.

As I think you all know, the Canadian Welfare Council is a national voluntary organization of individuals and organizations. There are about 600 organizations and 200 individuals affiliated with the Council.

One of the purposes of the Council, as members will know from previous briefs, is to seek to influence public policy, particularly in social welfare matters, through the presentation of briefs and policy positions.

The Board of Governors of the Council is the governing body. It is elected at an annual meeting. It consists of two groups of people. Approximately half the members are nominated by the functional divisions of the Council, which are the Family and Child Welfare Division, the Canadian Public Welfare Association, the Canadian Corrections Association and the Community Funds and Councils of Canada, along with chairmen of standing committees and commissions of the Council. An equal number are elected as members at large. This means that the Board of Governors is a widely representative group, drawn from all across Canada, consisting of lay and professional leaders in welfare and related fields. It includes businessmen, university professors, clergymen of all denominations, doctors, lawyers, members of elected bodies, government administrators, private social agency executives, labour leaders, both men and women, and housewives and citizens at large. It meets two or three times a year to transact Board business and give general direction to the work of the Council.

• 1130

At its last meeting in the fall the Board appointed a committee to study the subject of abortion and to recommend a Council position. You may be interested to know that the Board fully appreciated the complexity of the

problem that it was tackling, and there was argument about the realism of expecting a report by March of 1968.

I was asked, because of the urgency of the situation, to form and chair a committee for this purpose. I chose a representative group from Ottawa, some of the members of which are with me here. Our usual practice is to have corresponding members across the country.

As our statement clearly shows, the work of the committee was speeded up, to put it mildly, by the Committee's interim report to the House and the introduction of Bill C-195 by the Minister of Justice.

The usual procedure in relation to a statement of policy of this kind is to have it presented at a regular meeting of the Board, but because of the urgency of the situation, combined with the fact that, as you all know too well, it is a very contentious subject, we followed the same, but unusual, procedure that we used on the family planning bill—of taking a mail poll of all members of the Board. It was in the form of a simple ballot, asking "yes", "no", or "comments". The great majority of those who replied were in favour of the brief. A small number abstained, and an equal number voted "no". Mr. Chairman, I think that is sufficient history. I understand all members have a copy of the statement. I would like to review its highlights very briefly.

You will note on the first page that our concern with abortion flows from our concern with family planning. We are concerned with both and with the promotion of social policies which will help to protect and strengthen family life.

We reiterate our support, which was presented to this Committee in the form of another brief, of the amendment of the Criminal Code in relation to contraception. We express the urgent hope that Bill S-22, which will bring into operation in that area changes recommended by this Committee, will be given quick passage.

Next we outline the basis of our attitude to abortion. We point out the developments that have occurred since we started our study, in the form of the Committee's interim report to the House and the introduction of Bill C-195 by the Minister of Justice. These, in effect, have put us in the position of reacting quickly to developments rather than of undertaking a detailed study with a view to making original recommendations, or recommendations based on our own research.

We generally support the legislation relative to abortion now before Parliament, with a couple of minor amendments which, we believe, would remove small, unintended inequities.

We emphasize our concern and belief that "health", for the purpose of this legislation, be defined as including mental as well as physical health.

We express the view that the proposed changes in the law will not of themselves significantly reduce the incidence of legal abortion, and go on to emphasize the importance of preventive measures and of improved measures for the care of affected groups such as unmarried mothers and their children.

• 1135

We commend the Committee's awareness of the need for further study and we note the areas of study that have already been suggested to the Committee. We emphasize our concern with studies of the social consequences of the various types of abortion legislation.

In closing, Mr. Chairman, may I say that our final paragraph is no mere ceremonial buttering-up of the Committee. It reflects our genuine respect for the Committee's obvious concern with, and serious awareness of, the many facets of this problem.

**The Chairman:** Thank you very much, Mr. Knight.

I will now ask Mrs. Lane for an opening statement.

**Mrs. Chris Lane:** Thank you very much, Dr. Harley.

As you pointed out, we do not represent a group or an organization. We come before you as a group of individual women.

I will introduce the ladies to you: Mrs. Helen Levine; Mrs. Heather Caloren; Mrs. Sue Findlay; and at the back, Louise Lemieux and Mrs. Marjory Harris.

We are concerned with this problem not only as women who could be faced with the problem, but because we all have had close personal experience with women who have been involved in the agonies of the present abortion situation.

I will ask Mrs. Levine to summarize the points that we have made for you.

**Mrs. Helen Levine:** Women are persons and have the right to control their own lives, including reproduction. The practice of hav-

ing abortions exists, and it will continue to exist. At present women are forced to resort to illegal, debasing and dangerous means of abortion.

Therapeutic abortions, administered by hospital boards, as recommended in the proposed legislation, Bill C-195, will not significantly alter this picture. All children should have the inalienable right to be born "wanted children". Therefore, we recommend that abortion be available to any woman on request.

**The Chairman:** Thank you very much, ladies. Before we proceed to the examination of the witnesses, is it agreed that today's two briefs become part of our record?

**Some hon. Members:** Agreed.

**The Chairman:** The meeting is now open for questioning.

**Mr. Chatterton:** I recognize that the Council's concern with abortion is related to its concern with family planning.

Mr. Knight, would you say that the matter of illegal, or non-therapeutic, abortions is a major factor affecting this family planning aspect that you are interested in?

**Mr. Knight:** I did not quite get your question.

**Mr. Chatterton:** Would you say that the matter of illegal abortions, or non-therapeutic abortions, is a major factor in family planning?

**Mr. Knight:** We would put it this way, that we see adequate programs of family planning as a significant preventive of unwanted pregnancies and, therefore, of illegal abortion.

**Mr. Chatterton:** All right. You say that adequate family planning would eliminate a certain amount of illegal abortion. Do illegal abortions, *per se*, affect the real planning of families? Let me put it this way: Would the elimination of illegal abortions make proper family planning easier?

**Mr. Knight:** I will ask Dr. Grygier to comment on that.

**Dr. T. Grygier (Director, Centre of Criminology, University of Ottawa):** The situation that has arisen in some other countries is that it appears that family planning was not widespread. Illegal abortions have been stopped by simply making abortion

legal, and it appears that the consequences were socially undesirable. Therefore, these two factors should be taken together.

• 1140

I think we all agree—at least all of us on this particular Committee of the Canadian Welfare Council agreed—that abortion should not be a part of family planning. Whatever the role of abortion, it should not be just the standard procedure to avoid birth. In that sense, I think family planning has an effect on abortion in that it reduces the need for abortion whether legal or illegal. But in a way, the fact that abortions are widespread they are illegal, they create a problem, and they make the family planning problem more acute.

**Mr. Chatterton:** Would you say then that the question of illegal abortion is a major problem in this whole aspect?

**Dr. Grygier:** I think it is a major problem because in a way it does create a situation which is more acute even in the field of family planning. But it does not mean that making abortions legal would be a desirable end because that will be the measure of family planning. It should not be the measure of family planning.

**Mr. Chatterton:** Mr. Chairman, I am coming to the point in the purpose of my questioning to Mr. Knight. You say that you support the provisions of Bill C-195 and yet you say that you do not believe that these proposals will solve the problem of illegal abortions. How can you support these provisions when you do not think that they will significantly reduce illegal abortions. Further on in your brief you recommend very strongly that further information be obtained. In the face of these two statements, that you are not sure that it will decrease illegal abortions and that we need more information, how can you support the provisions of Bill C-195?

**Mr. Norman Knight:** I would like to ask Dr. Whyte to comment on that, Mr. Chairman.

**Dr. J. C. Whyte (Head of Obstetrics and Gynaecology, Ottawa Civic Hospital):** From a medical point of view, we support it because we are acting presently under a law which is contradictory and almost impossible to understand or interpret correctly. We would like, let us say, legal back-up for what in fact most medical people do today. The law states at the moment that abortion may be performed

only to save the life of the mother. I would say that in the small number of cases in which we do so-called legal abortions, we could not go to court and swear, in respect of most of them, that the mother would have died if we did not do it. We are operating therefore, let us say, along the edge of the law. I would like the law to reflect what really happens; that we do it to preserve the health of the mother.

**Mr. Chatterton:** Dr. Whyte, it seems to me your reply indicates that the main reason you are supporting the provisions in Bill C-195 is because it clarifies the provisions in the existing bill. I do not think any witness here before us has denied the desirability of clarifying the existing provisions. If your only support of Bill C-195 is the clarification of it...

**Dr. Whyte:** I am sorry, sir, but some of the witnesses who have appeared before you do not wish it changed at all. They do not want it to include the word "health". They want it only to include the word "life". I know this is true in the case of the Committee for the Defence of the Unborn Child.

**Mr. Chatterton:** Thank you.

**Mr. Ballard:** When Dr. Grygier replied to Mr. Chatterton he said the experience in other countries is that when abortion is made legal it cuts down the number of illegal abortions. I wonder if he would elaborate on that.

**Dr. Grygier:** I did not say that.

**Mr. Ballard:** I am sorry, I was under the impression that you had.

• 1145

**Dr. Grygier:** No, no. What I did say was that if abortion is made legal and at the same time other measures of family planning are not widespread, not used, then this leads to such widespread abortion that in fact the countries which have no religious grounds for making any restrictions on abortion did re-introduce restrictions on abortion. In fact, therefore, we cannot just think of abortion completely in isolation. Legalizing abortion without making adequate provisions for some acceptable means of family planning would, I think, be dangerous.

**Mr. Ballard:** And this has been the experience in other countries.

**Dr. Grygier:** Yes, this has been the experience in other countries.

**Mrs. Grace MacInnis (Vancouver-Kingsway):** Mr. Chairman, I do not think we have quite finished with this question. I would like to address myself to Dr. Whyte. We have been told by witnesses here that the main thing we should be doing is improving social conditions as a means of combatting abortion. We also have been told that medical indications of the need for abortions now are so very slight that they can practically be ignored. We have been told that when the use of contraceptives is widespread that we will not be needing abortion. We have been told that this will not affect the illegal abortion figures. In view of all this, do you think there is any need for abortion and, if so, what role should it fill?

**Dr. Whyte:** I think there will be a need until, let us say, such time as fool-proof methods of contraception are not only available but in the hands of everyone who desires them, and perhaps even then there will be mistakes made. It is hard for me to envisage, although I think, theoretically, a time could be reached under those conditions when there would not be a need for abortion. This is theoretical and I would see it as being a long way in the future.

**Mrs. MacInnis:** What is the need for it now?

**Dr. Whyte:** There still are medical cases; there still are organic diseases—chronic kidney disease comes to mind as one of the outstanding ones—in which a pregnancy does threaten the life of the mother, certainly shortens the life of the mother to a great degree and adds to her chronic kidney disease. These conditions are still present. It is true that some other conditions such as tuberculosis and heart disease are not as often an indication for abortion today but, occasionally, they still are. Perhaps they are replaced by more psychiatric reasons in today's society. But these still constitute to my mind definite indications in a number of cases.

**Mrs. MacInnis:** Mr. Knight, I notice at the bottom of page 2 in your brief that you say:

Granted the desirability of having every hospital so accredited, we question the principle of legally requiring a status conferred by a private body when the basic operating authority for a hospital is a government agency.

I wonder if you could just explain that a little bit.

**Mr. Knight:** The Canadian Council on Hospital Accreditation is a voluntary body, it is not an official body. As we say, we are not quarrelling with the desirability of having every hospital so accredited, but, as we understand it, the legal authority for a hospital to operate is granted either by the provincial authorities, under which health and welfare normally come, or in certain instances by the federal authorities, when they are operating hospitals within their jurisdiction. It seemed to us unnecessary to limit the hospitals in which an abortion could be legally performed to those accredited by a voluntary body when hospitals that are not so accredited are perfectly capable, are licensed in fact, to carry on or to perform surgical procedures just as complicated, if not more so, than an abortion.

•1150

**Mrs. MacInnis:** Would you then be in favour of having the regulations indicate that any hospital duly licensed by the government, having proper abortion boards, should be able to perform abortions?

**Mr. Knight:** We say "We therefore suggest that abortion be permitted in any hospital duly licensed by the appropriate jurisdiction". This would be the basic requirement.

**Mrs. MacInnis:** Thank you. I wanted to ask Dr. Grygier a question. I understand that he is familiar with some of the European countries. There has been a great deal of soul-searching on this Committee about the desirability of the Committee sending a delegation to study actual conditions in Hungary, Sweden, and Japan. In your opinion, what would be the value of Committee members doing a study like that? Would we learn anything if we went?

**Dr. Grygier:** I think the value would be limited. There is the same difficulty in getting statistics and opinions. Statistics on legal and illegal abortions and statistics on crime are really without much value unless they are collected within a specific and identical scientific framework. Quite frankly, as a criminologist I pay very little attention to so-called statistics of crime or statistics of recidivism, because I know we have a different framework every time. We mean different things by recidivism; we mean different things by crime; we even mean different things by such things as murder. Unless it is done in a very scientific manner, and it is not just an attempt to get opinions but to get real

facts in as an objective and scientific manner as possible, I think the value of these studies is limited. I am not saying it is completely without value, because at least it poses questions. At least one can see to some extent the operations of not only the administration of justice but also of social agencies, medical agencies, and so on. There are certain facts which one can govern, and then one is probably a little better prepared to express opinions than if you are simply asked for opinions.

I would also say that it would be better for members of this Committee to go to Europe to conduct a study rather than, for instance, appointing a royal commission to again hear witnesses, who would possibly make assertions instead of bringing facts, because facts are so scarce.

**Mrs. MacInnis:** In other words, you say that if a delegation from the Committee went to Europe that it should either have with it some people who know how to get at the statistics and hard facts, or that it should be evaluated before or after such a trip?

**Dr. Grygier:** I agree entirely with your views.

**Mrs. Valerie Dufour (Ottawa):** Mrs. MacInnis, one of the things our committee felt should be done, however, was that scientists and properly qualified technicians in the field of social legislation should study the law and its consequences on the people who actually are involved in abortion, and so on. One of the things that has not come out in any of the discussions here, and especially in the briefs, is an indication of what happens to people, how they react to the legislation and what the effects are on the people involved. We discussed at great length the matter of Swedish women who found their legislation was restrictive and they went to another country. In fact, there is a gray area here where it is not at all clear what effect the proposed legislation would have on the body of people who are directly concerned.

• 1155

I do not think this eliminates the idea of changing the law in some way at this stage. However, I think it has to be shored up by a continuing review of what the effect of the legislation is—or a theoretical study of what the effect could be—in the light of what has happened in other countries where there is some permissive legislation regarding abor-

tions. We do not really seem to know what effect it has. Do women actually feel freer; do they respond positively to this legislation; do doctors respond positively, and so on? I think the kind of people who should do that are experts who can, in fact, talk to the doctors and look at the statistics as scientists and report back on findings, not in the sense of holding up the legislation until you get this kind of report but in fact to follow through on legislation that could change and should, in fact, be continuously changing to keep up with a situation which does not remain stable at any time.

**Mrs. MacInnis:** Mrs. Dufour, you are here representing the younger people, and because I do not think we have previously had any witnesses introduced specifically to represent the younger people, would I be out of order if I asked what your view is up to this point and after your studies on what should be done about abortion legislation?

**Mrs. Dufour:** I really think the grounds for legal abortion must be broader. I am convinced that illegal abortions will never be eliminated. There are people who simply will not find within the law a way to provide for what is, in fact, a completely personal desire to have an abortion because they do not want a child. I agree with the submission of other groups that an unwanted child is a very unfortunate occurrence. In the Welfare Council we looked at it in the wider context of the whole; family planning, family counselling and the education of young people, so that we see it fitting into our total review of health and emotional problems. When those matters are more adequately provided for—I do not think they are now, I do not think the philosophy of teaching and family counselling, and so on, is supported by legislation—abortion will be in a better place in the total social structure. I think there will always be a need for legal abortion. Dr. Whyte has already mentioned that.

**Mrs. MacInnis:** I have one final question. We have heard a lot of ideas put forth on the rights and responsibilities of various elements in the family: the woman, the foetus, and so on. What do you think the rights of a woman are with regard to her own body?

**Mrs. Dufour:** I think in many ways her first right is the right to choose to have a child. That is not her right alone, it is obviously also the right of her husband, but if they

choose to do it there is a certain amount of wanting and taking the responsibility for the pregnancy and following through with it. It is also her right to live. If there is some danger to her which is medical or emotional, if she has suicidal tendencies, and so on, as far as I am concerned she has the prior right to live.

**Mrs. MacInnis:** Suppose she gets caught in an accidental pregnancy, then what?

**Mrs. Dufour:** Then I think it is an individual problem. I think that is when counselling comes in. I do not think the immediate reaction to an unwanted pregnancy should be abortion. One of the things not adequately available now is someone to whom a woman can turn for counselling about attitudes towards pregnancy; about follow-through on her pregnancy; about how to make a new child she was not really planning for fit into her family setting. Abortion to me is really a final gesture when all other things have failed; when you have tried to cope with it emotionally; when you have tried to cope with it physically; when your doctor has given you the best possible advice and you are still unable to cope physically or emotionally. You have reached a very, very far point when you think about abortion. When you think about it that is where it fits in with what happens to you.

**Mrs. MacInnis:** I have many more questions, but I will have to wait.

**The Chairman:** Mr. MacDonald?

**Mr. MacDonald (Prince):** I presume both groups are available for questioning. I wonder if I could turn to the second group just for a bit of a break, perhaps, although both groups are at least on the same side of the ball park even if they are not standing side by side.

• 1200

It seems the major thrust of your presentation is really that the woman should be allowed to decide whether or not she should have an abortion. This has been said quite frequently during the whole discussion on abortion, what right we or any legislative group have to legislate over the rights of the individual woman to decide whether or not she shall give birth to a child. I find this reasoning somewhat fallacious because it seems to me pregnancy is the result of a social act, as was mentioned a few moments ago by Dr. Dufour; a social act not only in the sense of the involvement of the husband,

but really with the consent of society, to a degree, which has a certain stake in that family and in the individuals that make it up. If you wish, I wonder if you would like to defend the view that a woman should be able to decide without any others, either the husband, or perhaps society itself participating in some way.

**Mrs. Lane:** I do not think pregnancy is the result of a social act exactly. Your definition of "social" may be different from mine.

**Mr. MacDonald (Prince):** I think of socialism as involving at least two people, perhaps more.

**Mrs. Lane:** This does not always involve the decision of two people to create a child. I think that theoretically and desirably we would want it to be the decision of two people, a man and a wife, to create a child when they do. I think that is certainly what we are all after. However, there are many cases in which it is not a decision that is undertaken; it may be an accident; it may be something that is forced upon the woman; she may not be married; there are all sorts of problems. This may not be a planned child, a planned pregnancy. If it is not a planned pregnancy, if she has used birth control methods and these have not worked, or if she has not used birth control methods but she does not want the pregnancy, she should not have to have the pregnancy. Obviously if there is a husband involved there is a partner decision in pursuing the pregnancy.

**Mr. MacDonald (Prince):** I do not think you have really answered my question. You have offered ways in which a situation could occur and in which the mother might want to make the decision, but you have not really explained why the husband in the first instance, or society in the second instance, would not have some responsibility to participate in the decision to have an abortion.

**Mrs. Lane:** My feeling is that in no other aspect of society is such a decision forced upon a woman. When she decides to marry—and certainly there follow from marriage many influences that affect husband and society—she does not have to ask permission. She simply, to the best of her ability, makes the decision that she will marry. So, too, when she has a child; to the best of her ability, hopefully in a mutual sense in relation to her husband, she also makes that decision, and there is no intervention on the part of society, no one has to give her permission.

**Mr. MacDonald (Prince):** Yes, but I would say that your argument falls down when you try to compare these things that you have mentioned because to the best of my knowledge no individual person can by herself say, "I am now going to become pregnant", and suddenly be pregnant, because somebody else participates in that decision with her, or in that operation with her, either directly or indirectly. Therefore it does not seem to me to be the clear-cut individual responsibility that has been suggested by you and by others.

• 1205

**Mrs. Lane:** If there is a responsible husband attached to this decision-making apparatus, obviously they will make the decision together. Obviously they will.

**Mr. MacDonald (Prince):** In your brief you make it quite clear: at the request of any woman. At the very last page of your brief you state:

Therefore, members of the Committee, we recommend that abortion should be at the request of any woman in consultation with one or two doctors of her own choosing.

**Mrs. Lane:** At the top of page 3 it reads:

But they will be assured of having the children they and their husbands want when they want them.

**Mr. MacDonald (Prince):** I know. But that is not really the general thrust of your brief. I do not think that you would now want to be backing away from what is your position, would you? Or are you saying that this is not your position then?

**Mrs. Sue Findlay:** May I just add something? I think that we are trying to be as broad as possible in order to cover cases where there is possible disagreement between husband and wife. We would hate to pin it down to some kind of consultation or some kind of counselling process that would have to go on before a woman would be able to have an abortion. I think that all of us have had some personal experience, or have known people who have been forced into submitting to the will of their husbands, which is not something that we would like to see.

**Mr. MacDonald (Prince):** You use Margaret Sanger in the second last page of your brief as an illustration and offer one of her quotes where she says:

... no woman can call herself free until she can choose consciously whether she will or will not be a mother.

I think that a good deal of what Margaret Sanger meant really had to do with deciding before participating in sexual intercourse, rather than deciding after whether or not she would want an abortion. To take just the primary interpretation of abortion in that seems to me to be a misreading of what in fact she does not say.

**Mrs. Levine:** I think Margaret Sanger's point of view was very much near the question of a woman's control over her own body. It is true that the focus of her efforts was in relation to birth control. May I say that from our point of view we consider abortion a last resort method of birth control. We are fully in agreement with the Canadian Welfare Council emphasis on family planning as a first line of attack.

**Mr. MacDonald (Prince):** The other major area in which you back up the reason for the mother's decision is in the whole business of having unwanted children and the deterioration of family life, but it does seem to me—and I say this in all kindness—that you perhaps are suffering from the same kind of mechanistic thinking that the other people at the other extreme of the question are when they want to go to great lengths to elevate the human life of the foetus almost to being more important than that of the woman who is bearing the child. Here I will say again that I think you overlook a whole host of situations in which abortion on this basis would not recognize the fact that in many cases a woman, during the time of pregnancy, might come to a strong feeling in herself that she does not want to bear the child, but yet when the child had arrived, the feeling both for herself and for her family would be very greatly different. I say this from very personal experience of families that I have worked with, and I know that this has often been the case. That is why I find it difficult to accept this thrust of your argument, realizing all the various factors that can come into play after the child finally arrives.

**Mrs. Heather Caloren:** This may very well be the case in certain instances, but there are definitely instances where this is not the case. I speak from personal experience on that point because I have in my home a foster child who is very definitely what we would

term an unwanted child; he has a multitude of problems, blocks and difficulties; he is only 9 years old; he is already very definitely marked for his whole life by the type of experience which he has been put through. I must say that when I took him on it was with high hopes of being able to relieve or reverse this situation; as time goes by I become more and more convinced that it is relatively impossible to do this, completely at any rate. This child will be marked for life by the fact that he was unwanted and rejected; and therefore I would argue that when you get right down to it, only a woman herself really can judge how she feels; and if she feels that she will be forced to continue a pregnancy which she does not want, granting that there may be the possibility that she would come to accept this pregnancy and this child later on, granting also the possibility that she may not, the decision should be up to her.

• 1210

**Mr. MacDonald (Prince):** We can have quite an argument about whether or not she is capable at times of making that decision all by herself. You quote one example; I can quote the example of my 2-year-old brother-in-law, and it is an entirely opposite case.

**Mrs. Caloren:** I am glad this case exists, but the others do too.

**Mr. MacDonald (Prince):** That is right and I agree, but this proves the very fact that it is almost impossible, I think, in a number of instances to make that determination.

**Mrs. Lane:** You do not have the opinion. If you are faced with an unwanted pregnancy now, right today, what do you do? If you cannot get a therapeutic abortion for certain reasons, and you will not undergo an illegal abortion, you are forced into the situation of having to make the best of that pregnancy. So it is very easy by the time you get to the end of the pregnancy to say, "Oh, well, sure he is a nice kid, I wanted him anyway".

Had you been able to have a legal abortion it may well be that later on you want a child. You will note in our brief we have pointed out there are 360 times a woman can become pregnant. This is not the end of her life because she is having one abortion, she can decide to have a baby when she will want it, and she can make this decision; she will have one that she wants from the beginning.

**Mr. MacDonald (Prince):** I thank the ladies for answering my questions. Now, I would

just like to direct one question to the Canadian Welfare Council.

On page 3 you suggest two minor criticisms of the present amendments introduced by the Minister of Justice. You have dealt already with the questions concerning the accreditation of the hospital, and then you suggest difficulties with the therapeutic abortion committee, that it perhaps is a little too restrictive to talk about at least three medical practitioners, and you suggest that it might permit instead:

... an abortion to be performed by a qualified medical practitioner with the written concurrence of at least one other medical practitioner who has independently examined the patient.

There may be a number of people who feel this is not sufficient protection for turning a particular hospital situation into an abortion mill. Would you suggest, as some have suggested already to our Committee, that instead of this therapeutic abortion committee being made up exclusively of three medical practitioners, perhaps one of these three might instead be a social worker, a clergyman, or some professional person who would have knowledge of the situation rather than just restricting it to the purely legal aspects of the medical practitioners?

**Mr. Knight:** I would like to give you my own comment on that, Mr. MacDonald. It seems to me that in the light of the grounds that are recommended for abortion, which relate entirely to the health of the mother—that the continuation of the pregnancy may endanger the life or health of the mother—this is something to be determined primarily by medical opinion.

Now I would assume that particularly where there were psychiatric indications—where the question of mental health was involved—that a hospital abortion committee might very well have a report or findings of a medical social worker; it might possibly call a medical social worker into consultation for her views of this woman's mental health as reflected by her behavior in the home which might not be observed in a hospital.

• 1215

In the light of that, I would see a social worker and also a clergyman as, shall we say, ancillary to doctors. But with the proposed grounds restricted to health, I think it would be sufficient to have the official authority in the hands of doctors.

**Dr. Whyte:** At the present time the independent opinion of two practitioners is what is required although it varies a little from hospital to hospital. I do not think there is any written law covering this.

I can speak for the Civic Hospital. We have an abortion committee, but this abortion committee need not necessarily be approached before the therapeutic abortion is done. Its prime duty and its terms of reference are that it reviews all such cases and if they do not conform to what it considers the standard then the man is on the carpet.

So, in fact, it is often used beforehand where feasible, but I can certainly see in many small places where there are quite well qualified men who can give opinions—two independent written opinions—they will not hamper or delay the performance of it, but I do not think it would enlarge it or make it too easily accessible, particularly since the provincial Minister of Health has the power to examine all records of any hospital at any time. For example, since all hospitals in Ontario are under OHSC they are under very strict regulations governing the way they are run.

**Mr. MacDonald (Prince):** I just raised this question because the proposed bill requires that there be three medical practitioners. When you suggest the consent of one and the written consent of the other, this might seem a little too loose an arrangement to some people, that it might be a form of compromise, taking what you have suggested and adding to it one other professional person in the category of social worker, psychologist, clergyman, or a professional person with knowledge of this particular case.

**Dr. Whyte:** It would be hard to set up such committees in many places. Ideally, in a large centre, you could have a committee which would include that. I think what Mr. Knight said is quite true in places like our own where we have a good social service set-up and social welfare. They always know, and we have a report. But if you go to Arnprior or Carleton Place where the need might arise, or Sioux Lookout, would they even have another social welfare person who would be adequate? This is why I would think it was restrictive.

**Mr. Knight:** I just want to add something for Mr. MacDonald. This point was the particular concern of a member of our committee who comes from a large island in your part of

the country. He was concerned about the problems that could be created where hospitals could muster the required therapeutic abortion committee only in two or three places in the whole province, and the problems that could arise, particularly if there were a medical emergency and not another doctor within 50 or 100 miles.

**The Chairman:** The whole country is the island is it not?

**Mr. MacDonald (Prince):** He can not be referring to us because we are not a large island.

**The Chairman:** Mr. Enns?

**Mr. Enns:** Mr. Chairman, first I want to commend Mr. Knight and members of the committee for the realistic, reasoned, well-thought-out statement that is reflected in your brief. These adjectives, of course, apply to the responses that members of your committee have given today to questions asked so far.

I want to ask an exploratory question on one area of your brief, from page 5. At the top of the page you say:

The Council will welcome the opportunity to consider, with the appropriate authorities, how its knowledge and resources might be usefully applied to such studies.

You talk about further studies. Do I detect here a volunteering by the Canadian Welfare Council to undertake some research—some badly needed research, I might add?

**Mr. Knight:** It could be readily interpreted as that, Mr. Enns.

**Mr. Enns:** I know the Council is able, in so far as staff permits, to undertake parcels of project research and so forth. I do not know whether our Committee has the funds to allocate to the Canadian Welfare Council to do a parcel research for us, but I am wondering if our Steering Committee should not explore this, Mr. Chairman. I do not know whether I am in order even in volunteering this point.

• 1220

I am interested in the area that you highlight, the impact of abortions on both the physical and emotional well being of women and what liberalized abortion laws might do for women, and so forth. These are all grey areas, as was mentioned. I am just wondering what we can do with this very noble gesture the Council has made.

**Mr. Knight:** As you probably know, the Council already is engaged in research in areas related to this, such as day-care and the experience of unmarried mothers who decide to keep their children. We deliberately use the term "to explore with the appropriate authority". We use that term deliberately because we foresaw that requests might come from a wide variety of sources. For example, a province might decide that some research into certain aspects of this question was desirable and the Council might be in a position to undertake it.

**Mrs. Lane:** May I make a comment?

**The Chairman:** Yes.

**Mrs. Lane:** I am all in favour of these wonderful plans for studies of the probable effects of the proposed abortion legislation on women, and the follow-up and everything, but is there any study now being done on the effect of the present abortion situation on women? There are all kinds of women going through both the therapeutic abortions, which are horrendous, and the illegal abortions. Are there any studies now being done of these women? It is all very well to look into the future and say you will study women if abortion is legalized, but what is being done about the present situation?

**Mr. MacDonald (Prince):** I think this will be part of the study that is being considered.

**Mr. Enns:** I am in sympathy with the suggestion and the urgent need for liberalization of abortion laws, and to this extent I think both briefs have been helpful this morning. Perhaps the Council already has a body of research knowledge which could be made available to this Committee or to the authority that will give further study to the problem. I intend to take this up with the Steering Committee at a later time to further explore this available knowledge.

Before I finish I want to say that your submission has been helpful and to tell the foster mother present this morning that I think there must be a special heaven for foster mothers. I salute anyone who is able to take another person's child into her home and into her heart. I say this by way of identifying my sympathy with your general plea for liberalization of abortion laws. Thank you.

**Mr. Forrestall:** Mr. Chairman, I might say to Mr. Enns that in the case of the adoptive parents it is a matter of selfishness.

**Mr. Enns:** I salute the adoptive parents in that connection.

**Mr. Forrestall:** Mr. Ennis indirectly raised one pertinent question that I wanted to pursue which dealt with whether or not the Canadian Welfare Council could undertake any particular or specific study that might be of some use to us. As that has been dealt with, I will ask the final two questions I wanted to pose.

The first question is does the Council have any knowledge of the number of parents in Canada who are seeking children, who want children for adoption purposes?

**Mr. Knight:** The best estimate I have is that at any given time 16,000 or 17,000 people in Canada are seeking to adopt children.

**Mr. Forrestall:** Because it has been drawn to our attention by the press that this is in fact the "Whyte-Knight Committee", may I ask Mr. Knight if he can indicate to the Committee whether or not it is better for a woman to carry a child full term, deliver that child and give it up for adoption, than it is to go through a series of perhaps one, two or three abortions during the same period.

• 1225

**Dr. Whyte:** That is quite an unfair comparison when it is compared with going through one abortion. It depends on several things, but it depends in good part on the person. I have known unmarried girls who carried their pregnancy through to term, gave the child up for adoption and who are now happily married with families. I am sure they are happy, but I also am sure that there are others for whom it has been something that has followed them the rest of their lives.

**Mr. Forrestall:** Dr. Whyte are you satisfied that Canadian women who contemplate abortion are fully aware of the physical effects of not only the first one but, perhaps more important by any subsequent abortion that they might undergo?

**Dr. Whyte:** I think most of them are. Perhaps some of the young girls are not, but a great many of the people who, let us say, have legal abortions are married women with families and they fully realize the effects.

**Mr. Forrestall:** After?

**Dr. Whyte:** Before.

**Mr. Forrestall:** Does this come about as the result of counselling?

**Dr. Whyte:** I have some particular cases in mind. They think they are in a psychologically impossible situation and they see only one answer.

**Mr. Forrestall:** The question is a social one and I am one of those mechanistic people who happens to believe that the foetus does have some semblance of life and that we do not have the right to decide whether or not we should destroy it. However, I wonder if the women—not necessarily only the women but those who take a strong position for broadly widening the present law and the grounds for abortion—are fully aware of some of the physical impacts of abortion on a woman's make-up?

**Dr. Whyte:** Everyone is aware of that. With the possible exception of a few doctors who are operating outside the law, I do not think the profession undertakes this operation lightly.

**Mr. Forrestall:** Oh, no I was not suggesting that.

**Dr. Whyte:** Because you are talking about the physical aspect, I think they are aware of the fact that in some instances a woman who has had a curettage does not get pregnant again. Were you referring to this as a physical aspect?

**Mr. Forrestall:** No. Because of the fact that it is very difficult for us as a Committee to determine the answers to a lot of questions that are bothering some of us, at least—myself in particular—I wonder where Canadian women get access to this type of information.

**Dr. Whyte:** I do not know. However, they know where they can go to get an illegal abortion, and I do not.

**Mrs. Rideout:** Not all of them.

**Dr. Whyte:** That is a fair response.

**Mr. Forrestall:** There is just one other point that in a sense I feel I must question you about. Perhaps it is again because I am mechanistic, but the ladies said at page 3 of their presentation in the second last paragraph:

People find it difficult to face up to the fact that a woman does not *want* a child.

Is this your opinion? If not, what do you base that statement upon?

**Mr. Enns:** From the existence of countless numbers of foster children. This might be an indication of unwanted children.

**Mr. Forrestall:** No, this is an unequivocal statement, that women do not want children.

• 1230

**Mrs. Levine:** I think that is a misrepresentation of the paragraph. I think perhaps that women know better than anybody else what it feels like to be a woman; what it feels like to become pregnant; what it feels like to carry or not to carry a child. I think the implication in this sentence is that generally speaking there is an attitude which is prevalent that a woman is—and I will read from the brief:

...a loving giving creature welcoming every chance to have a baby.

We are simply questioning whether that is the real Canadian woman as she exists today.

**Mr. Forrestall:** That is not what you said. I find it difficult to face up to the fact that women do not want children. You said, "a woman does not *want* a child."

**Mrs. Levine:** That a woman in a set of particular circumstances does not want a particular pregnancy and childbirth. Perhaps the brief was not clear, I am sorry.

**Mr. Forrestall:** That qualifies it. I have one further question. Because I am mechanistic I do not necessarily either consciously or unconsciously want to punish any unmarried woman for sexual liberties or married women for not welcoming each and every pregnancy. When you speak about "they", I want to make it clear that it is not simply because I am opposed to abortion and happen to be a Roman Catholic and it is not necessarily because of what my church's position and teaching in this particular matter are or, I might add, because consciously or unconsciously I want to punish anybody. It is simply because I am not satisfied yet that we have sufficient information from which to make a valid judgment about the total social impact of permissive abortion. I just want to clarify that; thank you very much.

**The Chairman:** Mr. Orange?

**Mr. Orange:** Mr. Chairman, the presentation by the Canadian Welfare Council seems to indicate that they are reasonably happy with the amendments as they now are to the Criminal Code, possibly with two exceptions, and I think the words are "minor exceptions."

Then on page 3 they say they assume the term "health" which is now in the draft before the House is as defined by the World Health Organization.

I recall a witness who was here recently saying that it is virtually impossible to define the word "health" and that the World Health Organization uses many pages in trying to outline what they consider to be health, including social, economic and other conditions. One of the areas that concerns me is the use of the word "health" as opposed to "life" and I just wonder whether Mr. Knight or Dr. Whyte could be a little more specific concerning the use of the word "health."

**Dr. Whyte:** I am not aware of the World Health Organization's definition. That is a very hard word to define, I agree; you can define it as meaning happiness if you like. But I would certainly say that in my opinion the words "physical and/or mental health" would cover what normally we have in mind.

**Mr. Orange:** The problem, of course, is the use of the words "physical health". It could cover almost any conceivable condition.

**Dr. Whyte:** I think you have to leave some things to the judgment of the members of the profession who have to do an operation. When you are talking about abortion I think those who have had a lot of experience with it are conservative and are the best judges of what constitutes a danger to health, and I do not think you can spell that out in words and put it into an act.

• 1235

**Mr. Orange:** Then I get the impression from the presentation today that taking into account your suggestion that the World Health Organization's definition of health should be the basis on which the legislation would be founded and then the moving off to the grounds of remote areas where it is not possible to . . .

**The Chairman:** May I interrupt here before you go on? I do not think that was Dr. Whyte's contention at all. He said he was not familiar with the United Nations declaration.

**Mr. Orange:** Yes, but the brief, Mr. Chairman, brings this out.

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, on a point of order. We have on record the World Health Organization's definition of health and it does not take up

pages and pages. It is one small paragraph and perhaps our Clerk has it and could read it.

**The Chairman:** Then it will be printed again.

**Mrs. MacInnis (Vancouver-Kingsway):** Oh, I see.

**Mr. Orange:** If that be the case, Mr. Chairman, I just want to go to the question of remote areas and the problem of establishing abortion committees in hospitals where it is not possible for more than one or two medical practitioners to make a value judgment.

I do not know what percentage of the Canadian people—it would be a high percentage, perhaps 5 to 10 per cent—live in circumstances described as remote areas where this is not available, and I have become a little concerned that possibly we open up the situation. There is the big city hospital where it is possible to get these judgments as opposed to the remote areas.

My point is that if we go along with this particular suggestion it appears to me that we are going far beyond what your brief seems to suggest we do, which is to carry on with the proposed amendment.

**Dr. Whyte:** If I understand you, you are worried about the fact that if we do not have committees this may be done in every little county or village hospital. Certainly it is not done in these places now and I do not think changing the indications will change it. At the present time it can be done with the written consent of two practitioners. I would not propose to change that. At the present time in remote areas patients are always sent in. We do so few that it is a little hard to generalize, but usually they are sent in.

Most doctors in remote areas will not take the responsibility for doing a thing like this without consultation in some place where there are specialists and that part of the law, to my way of thinking, would not be changed and would operate exactly as it does now.

**Mrs. Dufour:** Mr. Orange, somehow making the distinction between an urban, highly conglomerate population area and a rural area and your worry seems to me to create an inequality in the law for people who, by the fact of life, happen to live in an area other than a major urban situation, and there must be some kind of equality before this kind of permissive legislation is planned.

The people of the North, in the general sense of North, the Grenfell Mission areas and so on, must have equal opportunity to benefit from that law with a person in a major area and what is happening with what is, in fact, a pre-abortion committee—as opposed to what Dr. Whyte is talking about which is a review of procedures followed—puts all these women at a disadvantage.

Their health problems are probably more complex than those in the city in the first instance where they are properly cared for and can find the care they require, but if the legislation is so restrictive in its review board approach that a large body of women—and I think it is large enough to be given serious consideration—are, in fact, physically left out because they cannot reach the doctors, they cannot reach the so-called accredited hospital and so on, really it is not quite fair to them.

**Mr. Orange:** My concern is not that so much as how you could apply the same set of circumstances to the urban areas. My concern is that we would be going even beyond what I think you are suggesting in your brief.

• 1240

**Mrs. Dufour:** Well, we are suggesting alternatives as opposed to eliminations. We are saying, "where it is not possible" and I think Dr. Whyte is saying quite clearly that the doctors view these and all other kinds of surgical activities very seriously and do not undertake them lightly. It is a fact that in some instances they cannot consider them at all and there must be alternatives because of the geography of our country.

**Dr. Whyte:** May I say that some items of law, while passed with very worthy purposes in mind—and I am referring to legislation affecting medical men—are useless. There is a law in the Public Hospitals Act that no curettage may be performed on any woman of child-bearing age without a consultation by another doctor. Presumably this was passed with the laudable intention of preventing some men from taking a woman in and doing a therapeutic abortion and not saying anything, saying it was an incomplete.

There are a hundred ways you can get around it; it means nothing. In the first place all a man has to do is have a friend who will sign it for him; it is signed after the event. In the second place, how are you going to apply that to a woman who comes in haemorrhaging in the middle of the night and you cannot get another man to see her first and she is bleeding to death?

A far, far better way to deal with these cases is to have responsible committees who review them afterwards and then say: "Joe, you did not do it right; your privileges are taken away." It is a much better way to handle this situation and this is the way we try to handle it in the big hospitals.

**Mr. Orange:** As I understand it, this is the way you now handle it in the Ottawa Civic Hospital.

**Dr. Whyte:** Every man in the hospital knows that a committee reviews his charts.

**Mr. Orange:** I will now turn to the suggestion by the Canadian Welfare Council that further studies be undertaken. If I understood correctly, Mr. Knight said something earlier to the effect that in certain related areas the Canadian Welfare Council already has started to do some work in this respect; for instance, day care. Have you really looked at any other aspect of this?

**Mr. Knight:** Are you speaking of abortion?

**Mr. Orange:** Yes, the social consequences of abortion.

**Mr. Knight:** No, I do not think we have. I do not think we have looked at that specifically.

**Mr. Orange:** Has the Council undertaken any study to determine the abortion rate in Canada?

**Mr. Knight:** No.

**Mr. Orange:** In effect, then, you have only looked at the subject peripherally?

**Dr. Grygier:** May I add something? The Centre of Criminology of the University of Ottawa—I am fairly new in Ottawa, but I had been doing this myself previously—has studied other areas where we examined the social consequences of legal prohibitions. This is an important area. We very often think that just because we prohibit something, under the sanction of the criminal law, that we somehow curtail certain activities which we regard as undesirable. I think we on the committee generally regard abortion as undesirable. It does not mean that we have a basic conflict, for instance, with other representations made here, because I think they would also agree that abortion per se is undesirable. That is not the point. Rather, is the use of the criminal law, its sanctions and its consequences in this form, or in another

form, good or bad? That really is in a way a matter for criminal policy and it is sometimes not very easy to establish.

Some time ago I examined the situation regarding legislation in Ontario with regard to what is generally called juvenile delinquency. I came to the conclusion that there are numerous provisions in the Ontario legislation that have disastrous consequences. How did I establish this? I did a study which was essentially social-psychological in nature, and yet the consequences would result in a revision of the existing legislation. Fortunately this revision came about. The training schools Act of Ontario has been changed in accordance with research findings. These things occur, but how rarely? I can tell you how rarely because I was recently asked by our section on social defence—which deals with problems of crime, criminal legislation, administration of justice, and so on—to present a report to the United Nations Secretariat on this wonderful achievement where a government—in this case a provincial government—actually acted on a research basis and, this is very unusual. Usually we just profess various things; we assert various things; we assume consequences and we just do not look at the consequences of legislation.

• 1245

This is where I think our concern lies. What are the consequences of law? All these things are really interwoven and the problem of abortion is a religious problem, a moral problem, a social problem, a medical problem and, of course, a legal problem. At the moment for instance, I think I agree with Dr. Whyte. We also discussed between ourselves that it may be safer for some social welfare committees, or anyone else, to treat it as a medical problem because the consequences of treating abortion as a medical problem in fact may be better than treating it as a problem for the criminal law. I am not absolutely sure, but at least it appears to me at this moment that it may be desirable to treat it as a medical problem. However, I am quite aware that it is not purely a medical problem, just as the problem of governing one's own body is not entirely one's individual responsibility, and I think it is somewhat dangerous to define it that way.

I will give you an example which has nothing to do with abortion. One could really say that not only a woman but a man as well has a perfect right to his own nose. There are numerous people who are dissatisfied with

the shape of their noses. They feel their noses are really their doom, somehow it hampers their social relations, they do not get proper jobs or their love life suffers because their nose is not in shape. The really want to have an operation, but there is no question here of killing an unwanted child. It is definitely part of their body. They want to have this operation performed. It is dangerous to do it without consultation, for instance, with psychiatrists and without studying the social history and the psychological aspect. It is a dangerous thing to do because in some cases, when people are particularly concerned with the shape of their noses, they are in fact on the border of being psychotic. What happens if you perform this operation and they are still unloved and they still do not get another job, which is the wonderful job they wanted? They may go deeply into psychosis. In treating this it is not just a matter of the individual choosing the shape of nose he wants, although it is a medical problem. The medical problem in the wide sense is in examining the psychological and even the social consequences for this person if he has the operation. I think this is a more desirable approach and I think our committee agrees that it might be better to do it this way, although we are not sure.

• 1250

**Mr. Knight:** Mr. Chairman, I would just like to comment on the question Mr. Orange raised about mental health. As Mrs. MacInnis has suggested, the definition of health which is used by the World Health Organization is very comprehensive; it includes mental, physical and social well-being. Our point in mentioning it here was to support our concern that mental health should be regarded as part of health. This is important to us in relation to the application of the legislation because, as we say in the next paragraph:

...a hospital abortion committee may properly find that the continuation of a pregnancy resulting from rape or incest (actual or alleged) or the risk of deformity in the child would constitute a serious threat to the mental health of the mother.

Our committee felt that if it were clearly understood and applied, health in this context would include mental health and it would also include the essentials of the two additional grounds for extending abortion that have been discussed.

The first one is the question of deformity of the child. Under this interpretation the risk of deformity of the child is not a decisive factor.

What is decisive is the reaction of the woman at the prospect of bearing a deformed child and the medical appraisal as a result of that prospect, and this can vary a great deal. For example, suppose a woman who already has three children and is living on a marginal income again becomes pregnant. She develops German measles in the early stages of her pregnancy and the doctor tells her there is a 75 per cent chance the child will be seriously deformed. This could create a serious psychiatric disturbance in the woman which the abortion committee could find was adequate grounds for abortion.

On the other hand, you might have a woman who had been married for years and was getting towards the end of her fertile period. She and her husband always wanted a child and for some reason she did not become pregnant. She then becomes pregnant and the same thing happens; the doctor informs her of this situation, and she looks at him and says "Doctor, I want a child more than anything else in the world. I am prepared to take the risk". In that case there is the freedom of choice. Similarly, with respect to rape or incest but in view of the difficulties, which were obvious from the Committee's discussion, of determining whether and when rape has legally occurred, we backed away from it as a specific ground. However, it seems to us, under this interpretation, including mental as well as physical health, that where a medical board is satisfied that, for example, a girl, especially a single girl, is seriously disturbed as a result of rape, then it can proceed in accordance with the law.

**Mr. Allmand:** Mr. Chairman, these questions will be addressed to the ladies. Do I understand that these ladies are all married and are all mothers?

**Mrs. Levine:** Except for one.

**Mr. Allmand:** I thought it stated somewhere in your brief that you were all married and all mothers. However, the rest of you are all married and all mothers?

**Mrs. Levine:** Yes.

**Mr. Allmand:** Have you ladies been reading the proceedings of this Committee as they are published, including the briefs that have been submitted to us since we have been sitting?

**Mrs. Levine:** Most of them.

**Mr. Allmand:** The reason I ask this question is that in your brief you seem to misunderstand and, although I do not think it is intentional, distort the reasons given by the people who are seriously opposed to abortion on request. For example, on page 2—I think this has been mentioned already—you stated that the people who are opposing these things do not even believe that it is an extensive social problem, that they have little empathy for women who want abortions, and they even want to punish unmarried women. I think if you read closely the briefs of Dr. Walters, Dr. de Veber and Dr. Quigley and many others you would see that all these people who do oppose abortion, of course, do believe that the unwanted child and abortion is an extensive social problem, and they do have a lot of empathy for women in this situation. The thing that they say, though, is that abortion is not the proper cure for these things. I think you in your brief give the impression, as do a lot of people that write to us, that these people that oppose are opposing on the grounds that it is a sin or something like that. If you read Dr. Walters' statement you will see that the reason that he gives, and that many doctors and other people give, for opposing it on demand is that there is a developing human life there. There is sometimes disagreement as to what stage of development it is but they certainly deny that it is a part of the body like the appendix, the kidney or some other part of a woman's body, and therefore when women say that "we should be free to do with our bodies what we want," nobody denies that. However, I think you are oversimplifying a very difficult problem. I think you are repeating myths. These people certainly do not say the things that you say they do. If you read Dr. Walters' statement you will note that he recorded heart beats at nine weeks of pregnancy. He, as well as other doctors, pointed out and showed that there were independent blood systems and independent types of blood. In other words, there were many many scientific indications that this was an independent human life, and then the dispute arose how far this went towards being a human being and so on. However, they all agreed that it should have some human rights, no abortion on request, but in balancing that developing life with the actual life of the mother certain decisions have to be made.

• 1255

**Mrs. Caloren:** Might I just make an interjection here?

**Mr. Allmand:** Yes.

**Mrs. Caloren:** These may be the opinions of Dr. Walters and the other persons that you mentioned, and of course they have every right to their opinion on this. But we happen to have another opinion about that and that is exactly the reason that we are here. We feel that each individual person should have the right of decision based on conscience, moral, religious or other grounds. Persons who are influenced by these beliefs and feel therefore that they should not submit to an abortion, should be left to their own decision because this is their perfect right. But if other people feel that they have the right to decide whether this is an appendage to their own body, whether it represents an individual life on the side, they also should have the right of decision, and should not be bound by the moral or religious beliefs of others. They should not be forced by law.

**Mr. Allmand:** I agree that you have a right to your own opinion, but in your brief you are saying what the opinions of others are who oppose it. I am not against you holding your own opinion, but when you state that people who oppose it are opposing it because...

**Mrs. Caloren:** Yes, we may tend to oversimplify this.

**Mr. Allmand:** ...of A, B, C and D...

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, but a great many of the other briefs were coloured too.

**Mrs. Lane:** But do you see that part where it says "personally opposed to"? You missed that and it is very important.

**Mr. Allmand:** Is that in the same paragraph?

**Mrs. Lane:** On the same page, yes. It says they are personally opposed to abortion, along with all the other reasons. It says:

They do not wish to see any liberation of abortion laws because they are personally opposed to abortion. . .

And that actually takes into account that group.

**Mr. Allmand:** I see, yes.

**Mrs. Lane:** The legislation now does not inhibit this group but it inhibits our view.

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**Mr. Allmand:** Yes, but the point is that this lady is returning to the argument and it is a matter of personal opinion. I would agree if you were dealing with religious, ethical or social grounds. What I am saying, though, is it is not as simple as you say it is. I am not disputing your right to have an opinion, but these were scientific evidences that were brought forward. Either a child does not have. . .

**Mrs. Caloren:** If I may interrupt, is your reference to Dr. Walters recording of heart beats at nine weeks?

**Mr. Allmand:** Yes. I felt that his was the most impressive evidence that was given to us.

• 1300

**Mrs. Caloren:** I wonder if the recording of heart beats at nine weeks really is proof that this embryo is a conscious being at that stage. I do not disagree with you that from the moment of conception an embryo is a potential human life, but I do think . . .

**Mr. Allmand:** Would you agree it is different to an appendix, a nose, or a kidney?

**Mrs. Caloren:** Yes, it is a potential human life and I do not think we can possibly deny this fact. On the other hand it is not a human life with consciousness at that particular stage, not until after three months of pregnancy, if my understanding of the situation is correct. I would like to submit, if you want to argue it on religious ground...

**Mr. Allmand:** No, I do not want to argue it on religious grounds.

**Mr. Caloren:** Then let me put it another way. I think that a particular women should have the right to decide whether for her it is a greater wrong to end that potential life than it would be to go ahead and produce it when she has very grave doubts whether or not she is capable, physically or psychologically, of dealing with that life in a way that will allow it to develop and flourish in all its potentialities. I think that she should have the right to make this decision because, after all, she is going to raise this child, and she is going to affect it very definitely.

**Mr. Allmand:** Do you think therefore that the state should not be concerned about protecting this life, if it really is a life or a potential life?

**Mrs. Caloren:** I think that the state should definitely be concerned with protecting life,

and I would agree that after a certain stage of pregnancy if, what I have termed a potential life, does become a living creature with perhaps consciousness—and we have no way of really judging that—that at that stage it certainly would be a crime to do away with this. But my personal belief is that during the first three months of pregnancy, when this embryo is not a conscious being, it would be quite acceptable. I would not agree to ending a seven month pregnancy because this is definitely a child with human life.

**Mr. Allmand:** You think the state should protect that life, even though it is seven months or six months?

**Mr. Enns:** Could we hear Dr. Whyte on this?

**Mr. Allmand:** Well no. We have heard Dr. Walters, Dr. de Veber and we have heard Dr. Quigley.

**Dr. Whyte:** Have you heard anyone on the other side?

**An hon. Member:** I would like to hear Dr. Whyte when you are finished.

**Mr. Allmand:** Yes, I have heard people on the other side. I know that these ladies hold an opinion, and that they are entitled to do so, but what I objected to was the representations in their brief that people who oppose abortion on request do so merely for religious grounds or for these grounds that you gave which gives one the impression that these people are not as scientific and as sensible as those of you who ask for it on request.

**Mrs. Caloren:** I do not think we meant to imply this, but I would like to submit that this is rather beside the point of the argument which we happen to be bringing here today.

**Mr. Allmand:** I do not think it is, but in any case I would like to move on to something else. You do appreciate, though, that the people who do oppose it on request do so because they push back the point when they think the foetus is entitled to rights. Therefore, they do it on humanitarian grounds.

**Mrs. Caloren:** Certainly. They have every right to their opinion.

**Mr. Allmand:** Right. But you do not belittle that...

**Mrs. Caloren:** I do not belittle this nor do I wish to see my point of view belittled.

**Mr. Allmand:** Right.

**Mr. Knight:** Mr. Chairman, may I offer an independent opinion on this. I have before me a report in the newsletter of the Catholic Charities Council of Canada for December 1967 of an international conference on abortion which was sponsored by the Joseph P. Kennedy Foundation and the Harvard divinity school. I think it illustrates the conflict and the difficulties in this area. It starts out:

Prior to the international conference on abortion, it was obvious that there is not much agreement among Americans about what abortion is and what should be done about it. After the conference it was more obvious than ever.

I should go on that they:

... brought together some 60 experts in law, medicine, ethics and social sciences, added another 15 non-specialists to speak to the public and put them to work in a three-day free-for-all on the issue...

On this question of the life of the foetus, it says:

When the issue was put in terms of fixing the beginning of human life, the medical specialists declined to attempt a philosophical definition. Reporting for the section Dr. Andre Hellegers of Georgetown university said that 14 doctors on the panel could live with the simple assertion that "the fertilized human ovum has the genetic material required to produce an adult individual."

• 1305

**Mr. Allmand:** Much of the evidence that came before us said that, but I think that is different from saying that it is just part of the human body like a kidney, or a nose, or a finger, or something. There is a difference there and I do not think it is being distinguished enough.

On page 5 of your brief, you quote Margaret Sanger, and this was referred to before:

"no woman can call herself free until she can choose consciously whether she will or will not be a mother".

You argued from that that therefore in certain circumstances she should be allowed to have an abortion. I would ask you whether you would maintain that same principle for a man or a father. Is a man unable to call himself free unless he can choose consciously whether he will or will not become a father? I give you a concrete case. Suppose a father

and a mother or a husband and a wife agree that they will control their family, at the husband's request mainly. He feels that for economic and social reasons he does not want children and the wife is either taking the pill or using the loop or something like this. Then she decides without consulting her husband that she will stop and there is a pregnancy and the husband does not want it. Do you think that he should have the right to request the abortion of that child? Obviously in this case, the mother more or less has wanted the child but for social or economic reasons, for advancement in his job, or to move, the husband has not wanted it.

**Mrs. Levine:** I would say the marriage is in trouble, obviously, because there has been no mutuality about the decision. But I would say that in this situation the mother still retains the right to make that decision, that the foetus for the first few months is an extension of herself and that she certainly should have the right to control what happens to that extension of herself by having an abortion or by deciding to carry through with the pregnancy.

**Mr. Allmand:** So despite the fact that the father has legal responsibilities for that child when it is born, in other words, that in law he is responsible to the mother and the child to support it, provide it with an education, clothing and food, he does not have the right to ask for its termination when he does not agree to having that child. You think that he should not have that right.

**Mrs. Lane:** Yes. I think he has the right to ask her to have an abortion, yes.

**Mr. Allmand:** Just like the woman.

**Mrs. Lane:** Just like the woman has the right but she obviously in our terms is going to be allowed the final decision. I would suggest that if she decides to keep the baby and he wants the abortion obviously the marriage is going to collapse and she may want to keep the baby and have the marriage collapse. This may be what happens. But I would say that he certainly has a right under those circumstances but it is a question of...

**Mr. Allmand:** I know, but in your brief you mention that in many cases a wife does not want a child but is more or less imposed upon by the husband or else there are mistakes, or something happens such as drinking too much some night or something or other,

and there is a child born. In this case the wife does not want it, but the husband may want it. He may be opposed to abortion.

**Mrs. Lane:** The mother has the primary concern about child bearing. She is the one that is going to be pregnant. She is the one that is going to carry the child for nine months. She is the one that is going to have the baby. She is the one that is going to raise the child at home, so she is the one that has the primary responsibility for the care, physical and mental, of that child. The father has the economic responsibility and I suspect that men would more easily accept an unwanted pregnancy than would their wives. When both of them decided they did not want a pregnancy but one came along, the husband would more readily accept it than the wife. Yes, I would think so.

**Mr. Allmand:** You do not think you are looking at it only from a woman's point of view? You accuse men of not really understanding what a mother feels like because only a woman knows what a mother feels like. Would you not also agree that only a father can really understand what a father feels like and that maybe a mother does not understand that either?

**Mrs. Caloren:** Yes, that is right, but the man does not have to bear the child in his own body and there is a difference for this reason.

**Mr. Allmand:** I agree that is a big difference but the father has the responsibility for caring for both the mother and the child.

**Mrs. Findlay:** There is also another set of laws that needs some changes made, too.

● 1310

**Mr. Allmand:** That is right. I am trying to find consistency in your argument because I am trying to understand you. I really understand the brief of the Canadian Welfare Council but I find there is a lot of inconsistency in your brief, and I fail to understand you. I am waiting to be convinced.

**Mrs. Caloren:** I think that our main point might be taken as this. We feel there is a high rate of illegal abortion taking place in this country and we know from very close personal experience with several cases exactly some of the things that are involved for a woman in this particular situation. We feel that illegal abortions are going to continue to take place as long as they are not allowed to

take place legally and therapeutically; and that until the laws are broadened so that women who are going to seek an abortion in any case, laws or no laws, can have this abortion without endangering their health, we are facing a very grave social problem and something should be done to alleviate that situation.

**Mr. Allmand:** According to the evidence, the only way you can eliminate illegal abortion is by having full abortion on request.

**Mrs. Caloren:** Well, then, I would support this. Why should women be forced to seek illegal abortions because they are going to continue to seek abortions. I do not think there is any way out of this. Accidents happen even if you have family planning, and there will always be women who will seek abortions for one reason or another, and the reasons do not really matter. The fact is they will seek the abortion, and if they cannot get it legally they will have it criminally; and the dangers involved are very great.

**Mr. Allmand:** The big reason they should not be allowed to do this is because many people—and I agree there is a division of opinion, a real division—believe that it is against humanitarian principles to allow the termination of human life.

**Mrs. Caloren:** Well, let them believe this and let the rest of us be able by law, legally, to do as we feel is correct.

**Mr. Allmand:** Yes, but if people do believe in that principle...

**Mrs. Caloren:** They are not going to be forced to have abortions just because the law allows them to.

**Mr. Allmand:** No, but my point is that if you do believe in there being human life there you feel the state should protect it. It is like the case in Ontario last year where many people rose and cried out against a situation where two Jehovah's Witnesses parents—and there are many cases like this—refused to allow their child to have a blood transfusion. They said: "It is our child; we have the right to do with it as we want", and society said: "We as a state have the duty to protect that child, even against its parents." All I am saying is that there are people who say, "Why not let us be free to do what we want?" We are not imposing it on you, but many people feel that they have to protect an innocent life despite what the mother and the father might think.

**Mrs. Caloren:** I guess it depends on the definition of when there is life.

**Mr. Allmand:** That is right; that is the big problem.

**Mrs. Caloren:** It boils down to allowing people to decide this for themselves, because you cannot approve my point of view any more than I can approve yours. It is a fact of life.

**Mr. Allmand:** I have to find an answer. I have to make a decision on this, as have all the members. We have to decide one way or another, and we are trying...

**Mrs. Caloren:** Yes; but if your decision in lawmaking makes it impossible for a woman to seek a legal therapeutic abortion you are imposing your will upon her, because she cannot get what she believes is right.

**Mr. Allmand:** It is also an imposition of will on parents who are Jehovah's Witnesses, which is a religious body, when we say, "Despite your belief we think this child should have a transfusion, or it will die".

**Mrs. Caloren:** Until a certain stage the developing foetus has no life outside the life of the mother.

**Mr. Allmand:** There is dispute among doctors and eminent gynaecologists on that.

**Mrs. Lane:** We are saying that in the first few months you cannot possibly say that the foetus can live outside of the mother...

**Mr. Allmand:** Now—that is right.

**Mrs. Levine:** May I comment that I feel there is something rather incongruous about our concern with the social consequences of legal abortion and what I feel is the relative lack of concern about the social consequences of the present situation in relation to abortion.

**Mr. Allmand:** Who shows this lack of concern?

**Mrs. Levine:** I think this has been represented in many ways.

**Mr. Allmand:** You say that in your brief. I disagree with it.

**Mrs. Levine:** May I continue?

**Mr. Allmand:** Because all the people who came before us, if you read their briefs, have

disagreed with your position and have definitely recommended provisions to deal with the situation.

**Mrs. Levine:** May I continue? I really feel there is an imbalance there, because in the proceedings that I have read, and in the newspaper coverage, the concern is with...

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**Mr. Allmand:** Do not always rely on the newspapers.

**Mrs. Levine:** ...what may, or will, happen if the abortion laws are changed rather than in relation to the figure of 100,000 to 300,000 women—and I know those statistics cannot be pinned down completely—who are forced to go through either self-induced or criminal abortions and whose life and health, in a sense, are involved. I think the emphasis thus far has been on the life and health of the mother if the legislation is changed rather than on what is happening to her today under the present circumstances.

Frankly, I would be more prepared, in the interests of progress, to try some change in the legislation that has a chance of improving the situation than to hold on to the traditional way of looking at abortion and continuing with the very unsatisfactory circumstances that exist today.

**Mr. Allmand:** The members of this Committee, as members of Parliament, are concerned with the whole problem as it is now. You say you think there is a lack of concern. I say they are concerned. They realize that it is a serious problem and that something must be done. Whether the remedy is as you suggest, or a combination, or extension, of social and economic measures, is what we have to decide.

**Mrs. Findlay:** Mr. Chairman, may I just add one thing? I wonder how much evidence the Committee has heard about the social consequences of the present legislation? Our group represent more than hypothetical, theoretical or personal attitudes. As Mrs. Levine has mentioned, we have had some very intimate experience of cases of women who have had unpleasant experiences. One friend is in the hospital at the moment having a septic abortion after attempting to abort herself in very many unpleasant ways. There are other cases that I know of that could be documented.

Does the Committee have this kind of information? Mrs. Levine is a social worker and has access to some of these things. I have some experience in social research and would be glad to gather together a casebook of these studies. It is vital that the Committee members understand what the average woman is doing at present when faced with an unwanted pregnancy.

**Mr. Allmand:** We have had some evidence, but not enough.

**The Chairman:** I think it is obvious that most of those so involved do not want to talk about it before a parliamentary committee.

**Mrs. Findlay:** Yes; but I think the women are now sufficiently concerned that they would allow their cases to be documented. Could we submit this evidence? Would the Committee be interested in that, or would it have to be a personal presentation?

**The Chairman:** I am not sure. I can discuss it with the Steering Committee. I am not really sure that a particular case would add any great weight. We are not sure whether there are 100,000 or 300,000.

**Mrs. Findlay:** It is not the numbers, though, that are important.

**The Chairman:** There are many on the committee who seem to think that numbers do matter. I do not necessarily agree with them.

We will take up your suggestion with the Steering Committee.

**Mr. Knight:** Mr. Chairman, there are just a couple of points I would like to add.

First of all, I stated at the beginning of the hearing that there were 200 individual members of the Canadian Welfare Council. That figure should be 1200.

• 1320

Another thing I feel bound to say is that we are not dealing adequately with the social consequences of all the unwanted children who are now being brought into the world. For example, I quote the Associate Executive Secretary of the Canadian Welfare Council:

With 30,000 illegitimate births a year, and only 16,000 adoptions, the adoption program is not going to meet our needs for placing illegitimate children.

One can hardly pick up a newspaper or magazine without reading evidence of the inadequacy of the resources and services that we are providing for these people. This is not the fault of anybody in particular. It is a collective responsibility of the Canadian people. Another article here says: Adoption crisis. 10,000 kids with no place to go: Child welfare agencies are being driven to substitutes for what they know is the best solution for a child without a home—a foster home, where he can get the nearest substitute to the care of his own parents.

The effects of this are showing up in our juvenile courts.

I would also like to quote something said by Judge Herbert Allard of the Calgary Juvenile Court: "The key to the validity of a specialized juvenile and family court is in its resources. The juvenile and family court cannot order resources into being. Child welfare legislation without specialized staff, shelters, foster homes, group homes and treatment centres, is of little meaning to children or families of the community. A juvenile court operating under the most progressive legislation is futile without probation, detention homes and custodial treatment centres. In a recent survey which I conducted on behalf of the Canadian Association of Juvenile and Family Court Judges, one-half of the responding judges indicated that foster homes, specialized institutions and specialized ward care programs were not available to their courts. Fifteen per cent indicated they did not have any probation services available".

**The Chairman:** Does the Committee have any other questions?

**Mrs. Dufour:** I quite agree with much of what the ladies have said, but Dr. Whyte was bouncing up and down and I turned and asked him, "Where does the doctor fit into legislation which permits abortion on request?" Good arguments can be presented on either side, but how does the doctor react to it? One goes to him and says "I would like my tonsils out". He says, "It is not malignant. You can live with it". When it comes to carrying a child, what is the position of the doctor on abortion on request? Does one just sort of walk in and say, "It is my turn". Where does he fit in? I have not got the answer. I am not sure that you have the answer either. He is very much a part of it. He is the technician.

**Mrs. Lane:** There are doctors who do and doctors who do not; and there are doctors who are happy and those who are unhappy. There are many doctors who would be quite happy to do an abortion at any time if the law would only permit them to; and there are many who would never do abortions. It is the free choice of the doctor and the woman involved.

**Mrs. Dufour:** I know that; but I am thinking of it in the context of our hospitals and our care, where abortions are performed, and the process of surgical activity and so on. I find that the doctor has not been situated yet.

**Mrs. Lane:** We say at the end of our brief,

Therefore, we recommend that abortion should be at the request of any woman in consultation with one or two doctors of her own choosing.

Not very many women would undertake an abortion lightly, nor would a doctor perform the abortion lightly.

Speaking for myself, I take any kind of medical or surgical intervention extremely seriously. People do realize that their bodies are rather magnificent instruments and, on the whole, tend to try to take as responsible decisions about them as they humanly can.

• 1320

**Mrs. Lane:** The question is not a medical one at the moment. It is a legal one. I think the medical profession would be willing to accommodate the situation if they were legally free to do so. At present the only way they can perform an abortion on a woman, if there are no grounds for a therapeutic board, is if she injures herself or has herself injured or she produces an infection so that the doctor has to take care of her. It is only after she has endangered her life that he will perform the abortion, but she has to do this first, which I think is dreadful.

**The Chairman:** Are there any more questions? If not, I would like to thank the two groups who appeared before us today to discuss the matter of abortion. The meeting is adjourned until Thursday when we will have as our witnesses the Family Planning Centre of Montreal.

## APPENDIX "RR"

BRITISH COLUMBIA ASSOCIATION  
OF SOCIAL WORKERS

Brief on Abortion to the Standing Committee on Health and Welfare of the House of Commons.

## PREAMBLE

Present Canadian law on abortion is both obscure and widely disregarded. Sections 209 and 237 of the Criminal Code appear to be mutually contradictory, supporting sections add little clarity, and the legal profession is itself divided as to the legality of therapeutic abortion in Canada.

Illegal abortion is widespread. Estimates of illegal abortions in Canada run upwards from 100,000 a year. Probably no law is so widely flouted, yet the present situation falls inequitably upon the poor or less capable, who cannot afford the price of a skilled abortionist.

Society is staggering under a growing load of emotional illness, family breakdown and crime. Welfare costs are constantly mounting, and standard solutions are not adequate to deal with the dimensions of the problem. A vicious cycle of social ills repeats itself endlessly. Rejection breeds rejection, and the unwanted child becomes the maladjusted adult, contributing in his turn toward the problems of the next generation. As a result, our jails, hospitals and social agencies are filled to overflowing.

As social workers we are acutely concerned with the problems that stem from the unwanted child. Innumerable case studies tell the story of well-meaning parents who have tried to repress feelings of rejection, or of parents so desperate or inadequate that they no longer try. They are found in all classes of society, amongst the affluent and well-educated as well as among the poor and ignorant. Well-documented studies indicate that the children of these parents frequently become a burden to society. The "multi-problem families", so well-known to all social agencies, have an average number of children far higher than the national average—children for whom they can provide neither financially nor emotionally.

Another aspect of the problem of the unwanted child is the child of the unwed mother. Social agencies across Canada are unable to find enough proper adoption homes for the tremendous number of these children now being born. It is important to note that the rapid increase in numbers of illegitimate births is due to the proportionate increase in the number of females in the child-bearing age group. A recent report on the problem in British Columbia prepared by United Community Services of Greater Vancouver, shows that the rate of illegitimate births per 1000 risk population (single, widowed and divorced females aged 15 to 39) in the 5 year period 1961-66 increased only from 31.3 to 34.7. The actual numbers of illegitimate births increased during the same period by 46%, thus placing an intolerable strain on the resources of child-caring agencies.

The tremendous cost of providing services to these unwanted children should be a matter of urgent concern to our legislators who are at this time seeking ways and means of reducing welfare costs.

While there is no doubt that prevention of unwanted pregnancies is the desired solution, we must not shut our eyes to the reality that much of human behaviour is irrational and unplanned. We need to strengthen family life and responsible parenthood by providing supports of every kind. Publicly supported Family Planning Clinics should be freely available to all and education must be directed towards increasing understanding of the requirements of healthy family life.

There will always be a need for a variety of solutions to the problem. While abortion is not a desirable method of birth control, we can foresee many situations in which it may be preferable to producing still another child for whom no adequate care or love is available.

The present 19th century Canadian law on abortion grew out of conditions very different from those of our present day. Both medical and psychological knowledge of the needs for growth of a healthy human personality was then limited. In a simple and non-technological society, a large family was an economic

asset, and man's lifespan was short. Women had no voice in formulating legislation, and no vote in which to express their opinions.

Both law and responsible morality must take account of increasing knowledge and changing social conditions. Contrary to widely held assumptions, the religious prohibition against abortion has not been constant. Earlier Christian theologians believed that abortion was not taking life unless the foetus had "quickened", and it was not until 1869 that the Roman Catholic church prohibited all abortions. In Britain, until 1803, no legal penalties were attached to abortions if performed before the time of "quickening" (usually considered to be approximately the third month of gestation). Many churches in Canada today have spoken in favour of a widening of the present law. It is of course imperative that abortions be performed only with the full consent of the individual concerned.

### RECOMMENDATIONS

WE THEREFORE WISH TO RECOMMEND A CHANGE IN LEGISLATION IN CANADA SIMILAR TO THE ABORTION ACT 1967, PASSED IN THE BRITISH HOUSE OF COMMONS ON OCTOBER 27, 1967. Important provisions of the British Act are:

"A pregnancy may be terminated by a registered medical practitioner if two registered medical practitioners are of the opinion that:

(1) Continuation of the pregnancy would involve risk to the life, or of injury to the physical or mental health of the pregnant woman or any existing children of her family, greater than if the pregnancy were terminated.

(2) There is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped.

(3) In consideration of subsection 1, account may be taken of the pregnant woman's actual or reasonably foreseeable environment.

(4) Termination must be carried out in an accredited hospital.

(5) No person shall be under any duty to participate in any treatment authorized by this Act to which he has a conscientious objection".

We also wish to recommend that if registered medical practitioners have any question as to whether continuation of pregnancy would in fact be injurious to the mental health of the pregnant woman or to that of any existing children of her family because of stresses in the socio-economic environment, they should request consultation with a member of the professional association of social workers in their province.

Prepared by the

### SOCIAL ACTION COMMITTEE

of the

### BRITISH COLUMBIA ASSOCIATION OF SOCIAL WORKERS

Suite C, 2455 Cypress Street,  
Vancouver 9, B.C.

Mr. M. Beck—Chairman

Mr. A. J. W. Armitage

Mrs. E. E. Bragg

Mrs. E. Keys

Mr. C. I. MacInnes

Miss M. Martin

Mr. E. L. Northup

Mr. B. Skahan

Mrs. E. Thomson

### SPECIAL SUB-COMMITTEE ON ABORTION

Mrs. I. Falk—Chairman

Mrs. R. Hamilton

Dean H. McCrae

Mr. B. Skahan

Miss F. Wilson

## APPENDIX "SS"

CANADIAN WELFARE COUNCIL  
STATEMENT ON ABORTION TO THE  
HOUSE OF COMMONS STANDING  
COMMITTEE ON HEALTH AND WELFARE

The Canadian Welfare Council welcomes the opportunity to present a Statement on Abortion to the Committee, as a sequel to the Council's Statement on Family Planning submitted on April 21, 1966.

The Council's concern with abortion is directly related to its concern with family planning. Both flow from its objective of promoting social policies which will help to protect and strengthen family life. Public health and welfare programs designed to place the required information and means for family planning within the reach of all Canadians will, we believe, encourage responsible parenthood and help to prevent unwanted pregnancies leading to abortions. The Council therefore heartily endorses the decision of the government to seek deletion from the Criminal Code of Canada of any reference to contraception and so remove a legal barrier to responsible family planning programs. As the Committee knows, the government has acted in accordance with the Committee's recommendation and of many organizations, including the Canadian Welfare Council, which appeared before it. As this statement is written the necessary legislation is before the Senate in the form of Bill S 22 and the Council urges that its passage be given the highest priority.

Our starting point in relation to abortion is that it is, *per se*, undesirable. It is repugnant to many responsible people because it involves the destruction of a potential human life; to some it is, on religious or moral grounds, utterly impermissible. The majority, however, are prepared to accept the doctrine of the lesser evil and recognize that, in certain circumstances, it is preferable to deliberately terminate a pregnancy than to allow it to continue. This has been recognized, in limited and unclear fashion, by the existing Criminal Code. The fact that three private members' bills on the subject were referred to the Committee for study reflected the opinion of the elected representatives of the peo-

ple that these provisions should be carefully reviewed.

Since the Council undertook the study of abortion legislation dramatic developments have occurred in the form of the Committee's interim report to the House and the introduction of Bill C 195 by the Minister of Justice. The Council is therefore in the position of reacting to these developments rather than producing proposals *de novo*. With two reservations noted below the Council supports the amendments contained in Bill C 195 which have the effect of clarifying and slightly extending the conditions under which abortion will be legally permissible. The crucial requirements of the bill in its present form are certification by the therapeutic abortion committee of an accredited hospital that, in its opinion, continuation of the pregnancy would or would be likely to endanger the woman's life or health and the subsequent performance of the necessary procedure in that accredited hospital by a qualified medical practitioner. We believe this approach will commend itself to most Canadians—that the difficult task of determining when a potential life may endanger an actual life will be placed in the hands of a profession whose central purpose is the preservation of life. At the risk of labelling the obvious, the Council also notes with approval that the proposed legislation is permissive, not mandatory. Under the law, no woman will be required to undergo an abortion, no hospital will be required to provide the facilities for abortion, no doctor or nurse will be required to participate in an abortion.

We believe, however, that the proposed amendments are unnecessarily restrictive in two respects, which can produce inequities especially affecting people living in rural and frontier areas. These are that every therapeutic abortion committee must be comprised of at least three qualified medical practitioners and that the institution be accredited by the Canadian Council on Hospital Accreditation. Granted the desirability of having every hospital so accredited, we question the principle of legally requiring a status conferred by a private body when the basic operating authority for a hospital is a government agency.

Surgery of an even more complicated nature is permitted in non-accredited hospitals licensed by the relevant body. We therefore suggest that abortion be permitted in any hospital duly licensed by the appropriate jurisdiction, and that, where it is not feasible to create a therapeutic abortion committee of at least three medical practitioners, the legislation permit an abortion to be performed by a qualified medical practitioner with the written concurrence of at least one other medical practitioner who has independently examined the patient.

It seems clear from medical testimony already given before the Committee that doctors, as a professional group, approach abortion reluctantly, as a remedy of last resort. The fact that one doctor alone cannot make a legal decision to abort, combined with the authority conferred upon the provincial Minister of Health to require the production of any information relating to the circumstances of an approved abortion, creates important safeguards against abuse.

It may be objected, in relation to the modifications proposed above, that there should be no difficulty in bringing a patient to the type of hospital required by the legislation, in view of the relative ease of air transportation in Canada. We believe there are two rejoinders to this. One is that storms or fog can make flying from remote areas impossible for periods of time which may be crucial in a medical emergency. The other is that the cost of flying any distance may be a serious deterrent to a poor person seeking medical help, unless governments are prepared to pay the costs involved.

We assume that the term health as used in Bill C-195 includes mental as well as physical health, as defined by the World Health Organization. The Minister of Justice has indicated that the proposed therapeutic abortion committees may consider both physical and mental health and medical testimony before the Commons Committee suggests that they will. Psychiatry, as the treatment of mental illness, is a recognized area of medical specialization. Mental health services are standard components of departments of public health and mental hospitals are a health resource in every province. For example, a hospital abortion committee may properly find that the continuation of a pregnancy resulting from rape or incest (actual or alleged) or the risk of deformity in the child

would constitute a serious threat to the mental health of the mother.

The extent of the illegal abortion problem in Canada is a matter of dispute. Without much greater knowledge than we have of who seeks abortion and why, it is impossible to predict the effect of the proposed legislation on the problem. The Council is, however, inclined to the view that, in itself, it will not significantly reduce the incidence of illegal abortion among two important groups—the essentially healthy unmarried mother and the married woman who already has several children and insufficient income to maintain an adequate standard of living. The expected persistence of these problems emphasizes the importance of preventive measures. The Canadian Welfare Council has a special concern with the prevention of unwanted pregnancies because many of its member agencies have to cope with their consequences. The care of unmarried mothers and of their children is increasing pressures on the limited resources of child welfare agencies. A high proportion of the work of family service agencies is devoted to the problems of family stress and breakdown caused or intensified by the gap between family income and family needs. The Council therefore strongly advocates more adequate programs of family life education and premarital counselling as means of enabling Canadians to make more responsible choices in relation to parenthood. It is especially necessary that skilled counselling and adequate supportive services be available to the woman who finds herself with an unwanted pregnancy, to help her consider alternative solutions to the desperate choice of an illegal abortion.

The Council also commends the Committee's awareness of the need for further study, utilizing the experience of other countries. Such studies will obviously require a variety of expertise and involve a number of jurisdictions. The Council will welcome the opportunity to consider, with the appropriate authorities, how its knowledge and resources might be usefully applied to such studies. Areas already suggested to the Committee include the following:

- (a) Morbidity and mortality rates associated with abortions, the effectiveness of various techniques and physical and emotional effects of abortion on the woman.

(b) The effectiveness of preventive methods, such as sex education, family planning and family life education.

(c) The effectiveness of alternatives to abortion, such as counselling, psychiatric, financial assistance and social services.

(d) The impact on abortion rates of liberalizing abortion laws.

(e) The legal position of voluntary sterilization in Canada.

(f) Reasons for the numbers of illegal abortions.

To these the Council would add studies of the social consequences of various types of

abortion legislation both permissive and restrictive. Such studies should fully consider the social context of this legislation in different countries. Specific laws may work well in one country but not in another because of differing social conditions.

Finally, the Council wishes to congratulate the Committee on the leadership it has shown in relation to the difficult issues raised by a study of abortion. In reviewing the proceedings of the committee we have been genuinely impressed by its deep concern with and its critical awareness of the many facets of this problem.

January 29, 1968

## APPENDIX "TT"

A STATEMENT ON ABORTION  
TO THE STANDING COMMITTEE  
OF THE HOUSE OF COMMONS  
ON HEALTH AND WELFARE

We appear before you today, married women with children, because we recognize the urgent need in Canada for legalized abortion on request. We represent no organization or group but are typical of women with sufficient education and income to avail ourselves of whatever is necessary to insure we have the families we want and enjoy.

All our married lives we have been partners in breaking the law by our use of birth control methods. Dissemination of birth control devices and information has been against the law but we have planned our families and contraceptives have been accepted as a private matter of conscience between two people in the bedroom. As Mr. Trudeau has so aptly stated, "the State has no place in the bedrooms of our nation". We believe the question of abortion is also a matter of individual conscience.

If there are individuals or groups in Canada who disapprove of abortion on demand they remain perfectly free to adhere to their own beliefs and practices without interference. By the same token, the rest of society must enjoy the right to control their own reproductive lives in accordance with their concept of morality and dignity.

Are laws meant to fit social practices or social practices to fit the laws? The practice of having abortion does now and will continue to exist. Gentlemen of the Committee, your wife or your daughter may not want or need an abortion now or in the future but there are thousands of women who do, in Canada today. The woman without means or appropriate connections often finds herself seeking an end to an unwanted pregnancy in a bleak and dirty underworld where the chances of antiseptic procedures are remote. There are no reliable statistics as to what goes on in this underworld but do statistics really matter in this area of human suffering? Whatever number of women you personally choose to believe are involved in this prob-

lem, be it 1,000, 20,000 or 300,000 it is *significant* if *any women* are forced into the underworld of criminal abortion.

Those who argue against changes in our abortion laws on the grounds that it is not an extensive social problem are deluding themselves. They do not wish to see any liberation of abortion laws because they are personally opposed to abortion or they have little empathy for the women who want and need them. Consciously or unconsciously they give the impression of wanting to punish the unmarried woman for her sexual liberties and the married woman for not welcoming each and every pregnancy.

Women will not stop having babies simply because they have the option of having an abortion or preventing conception. But they will be assured of having the children they and their husbands want when they want them.

The proposed changes in the abortion laws will provide therapeutic abortions only for a very small group—those suffering from mental or physical problems, or victims of rape or incest. These changes will not alter the situation for the majority of women seeking abortions—those with an unwanted pregnancy. Abortion is their last resort birth control measure when preventive techniques have failed or have not been used.

People seem to find it difficult to face up to the fact that a woman does not *want* a child. This does not fit the traditional picture of a woman as a loving and giving creature welcoming every chance to have a baby. This attitude towards women's role is archaic and obsolete in Canada in 1968.

When a woman wants a baby there is nothing to match the joy of having one. Is you consider the fertility span of a woman as 30 years, there are about 360 months in which she may become pregnant. If she wants and has three children there will be about 325 months or about 90 per cent of her fertile life in which she does not have the joyous anticipation of a pregnancy but an undercurrent of feeling ranging from vague unease to considerable fear that she may be pregnant.

One would think that by now there would be wide-spread understanding of these fears. One would also think that by now there would be public acceptance of a woman's right to control her own body.

But it would be misleading to focus our concern entirely on the individual woman who is faced with an unwanted pregnancy. The distress and anxiety engendered in these situations is shared, willingly or not, with those close to her—her family. The relationships between husband and wife, parents and children are bound to reflect the woman's despair and in some cases result in complete family breakdown. National concern for the problems facing the modern family has already been demonstrated by the creation of the Vanier Institute. If we really do value the family as an integral part of today's society then we should be concerned with the effect of the present abortion laws on the fabric of family life. One of the major values of "abortion on request" would be the strengthening of the family.

The problems faced by the unwanted child present further valid arguments for abortion on request. Unsuccessful attempts at self-induced abortions or the failure to procure necessary pre-natal care may be harmful to the unborn infant. Rejection is often perpetuated after the child is born. Should any child have to bear the hostility and frustration of an unwilling parent or suffer the unknowns of institutional life? Every child should have the right to be born a wanted child.

Is a woman a lesser being? An individual with only partial control over her body? Emily Murphy, the first woman magistrate in Canada in 1916, was challenged in her first day in court as to whether she could sit in judgment because she was not a "person" in the eyes of the law. It took until 1929 and a special appeal to the Privy Council in London (all efforts with the government in Canada having failed) to ascertain that women were, in fact, "persons".

Are we still pleading the same case, in effect, that Emily Murphy won almost 40 years ago? Margaret Sanger, a pioneer in birth control once said that "no woman can call herself free until she can choose consciously whether she will or will not be a mother". It is a dangerous business to give a government the right to decide whether or when a woman must give birth to a child.

Therefore, members of the Committee, we recommend that abortion should be at the request of any woman in consultation with one or two doctors of her own choosing.

Respectfully submitted,

Helen Levine  
Sue Findlay  
Starr Solomon  
Chris Lane  
Heather Caloren  
Barbara Lane  
Marjorie Harris  
Louise Lemieux.

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OFFICIAL REPORT OF MINUTES  
OF  
PROCEEDINGS AND EVIDENCE

This edition contains the English deliberations and/or a translation into English of the French.

Copies and complete sets are available to the public by subscription to the Queen's Printer. Cost varies according to Committees.

Translated by the General Bureau for Translation, Secretary of State.

ALISTAIR FRASER,  
*The Clerk of the House.*

HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1967-68

STANDING COMMITTEE  
ON  
**HEALTH AND WELFARE**

*Chairman:* Mr. HARRY C. HARLEY

MINUTES OF PROCEEDINGS AND EVIDENCE  
No. 21

THURSDAY, FEBRUARY 15, 1968

Respecting the subject-matter of  
Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

WITNESS:

Dr. Serge Mongeau, of Montreal, Director of the Family  
Planning Centre.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1968

STANDING COMMITTEE

ON

HEALTH AND WELFARE

*Chairman:* Mr. Harry C. Harley

*Vice-Chairman:* Mr. Gaston Isabelle

and

Mr. Allmand  
Mr. Ballard  
Mr. Brand  
Mr. Brown  
Mr. Cameron  
    (*High Park*)  
Mr. Chatterton  
Mr. Cowan  
Mr. Enns

Mr. Forrestall  
Mr. Howe  
    (*Wellington-Huron*)  
Mr. Knowles  
Mr. Laverdière  
Mr. MacDonald (*Prince*)  
Mrs. MacInnis  
    (*Vancouver-*  
    *Kingsway*)

Mr. Matte  
Mr. Orange  
Mrs. Rideout  
Mr. Rochon  
Mr. Rock  
Mr. Rynard  
Mr. Simard  
Mr. Stanbury—(24).

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

CORRECTIONS (English proceedings only)

PROCEEDINGS No. 17—Thursday, February 1, 1968.

*In the Minutes of Proceedings and Evidence—*

Page 579, on left-hand column,

Lines 2 to 47 (8 paragraphs) and the last two lines *should not* be attributed to Dr. LEFEBVRE, *but to* Mr. Roland GOSSELIN.

Line 39 should read "it is a law of life."

Page 580, on left-hand column:

Lines 30 to 46 (2 paragraphs) *should not* be attributed to Dr. LEFEBVRE, *but to* Mr. Roland GOSSELIN.

## MINUTES OF PROCEEDINGS

THURSDAY, February 15, 1968.

(24)

The Standing Committee on Health and Welfare met this day at 11.23 o'clock a.m., the Chairman Mr. Harry C. Harley, presiding.

*Members present:* Mrs. MacInnis, Mrs. Rideout, and Messrs. Cameron (*High Park*), Enns, Forrestall, Harley, Howe (*Wellington-Huron*), Isabelle, MacDonald (*Prince*), Matte, Orange, Rynard, Stanbury (13).

*In attendance:* Dr. Serge Mongeau, M.D., of Montreal, Director of the Family Planning Centre.

The Chairman brought to the attention of the Committee the request of the Canadian Labour Congress for a hearing.

After discussion, it was agreed that the request be granted on the condition that their brief be ready for presentation on the 20th of February, otherwise, a written submission should be forwarded before the end of this month. The Chairman was ordered to inform the Congress accordingly.

The Chairman introduced Dr. Mongeau who made a few comments.

*Agreed,—*That the brief prepared by a committee set up by The Family Planning Centre and the appendices thereto, also a letter received from Mr. and Mrs. Raymond Doyle, the President-couple of the Liaison Centre of the Seréna Group, be printed as appendices to this day's proceedings. (*See Appendices "UU" and "VV"*).

Dr. Mongeau was questioned.

The questioning concluded on behalf of the Committee, the Chairman thanked the witness for his presentation.

At 12.40 p.m. the Committee adjourned to the call of the Chair.

Gabrielle Savard,  
*Clerk of the Committee.*



## EVIDENCE

(Recorded by Electronic Apparatus)

Thursday, February 15th, 1968

● 1123

**The Chairman:** Ladies and gentlemen, there is one matter I would like to bring to the attention of the Committee. As you know, some time ago we agreed to a cut-off date for the hearings which has long since passed. Those who have written since that date have been told that we will be pleased to accept a written brief but we have asked them not to appear before the Committee because of our cut-off date.

I had telephone conversations with the representatives of the Canadian Labour Congress. They wished to present a brief but I pointed out that we had a cut-off date that has long since passed and suggested they present their brief in writing. They brought this up to their meeting, apparently, and agreed that they should present a brief but want to present it in person. If the Committee says they shall not be heard, then they will decide whether or not they want to present a brief in writing. I said I would bring this up to the Committee and if the Committee wishes to hear them it would be possible for them to appear but if we do that I suppose we will have to hear anybody else who wants to appear.

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, may I say a word? They were talking to me and they pointed out that the only body that could prepare this brief is their Executive Council. That is the only body with such authority, and it meets only two or three times a year, and it was meeting this week.

This was the only week they had a chance to put a brief together with any authority, and consequently they said that as they are a national organization represented from coast to coast, they thought they merited having allowance made for the fact that they could not do an authoritative brief until this week.

They have moved as fast as they could on it, so they wish consideration to be given to

an exception being made to allow them to come before us on account of their position.

● 1125

**The Chairman:** All I can say, of course, is that this is true of many national organizations that appeared before us.

**Mr. MacDonald (Prince):** I would like to speak to this, Mr. Chairman. I am certainly not opposed to the CLC or any other group submitting a brief, but I think we will expose ourselves to a great deal of criticism because I agree with you if we make an exception that a number of organizations meet only annually.

With all fairness to the CLC, if this is being prepared in the context of a meeting this week, I do not imagine it is going to be of great length or involve any substantially new material. We will have their views which I think will be valuable because it is an important organization, but I think their views submitted in written form would be every bit as valuable as any opportunity the Committee might wish to have to question the representatives.

Frankly, this Committee has provided a lot of momentum to the supplying of briefs, and I am afraid that once we gave the green light to one group we would find ourselves still holding hearings when this session prorogues, and we would then be in a rather difficult state in terms of preparing a report. I believe it is your intention to have a report submitted before this session winds up?

**The Chairman:** Well, I certainly hope so. This is up to the Committee but I think we should have a report of some description because it is our job. If we do not feel we have enough information, then I think we should have even a report saying that, but I think we have to make some report to the House. Is there any further question on this point?

**Mr. MacDonald (Prince):** Perhaps I could ask Mrs. MacInnis, because she is the one person, perhaps, besides yourself who has had any contact with the CLC, whether they

will be introducing any substantially new material or insights or simply taking a position...

**Mrs. MacInnis (Vancouver-Kingsway):** I cannot tell you. I have not seen the brief and I do not know what is in it.

**The Chairman:** Well, the Chairman is in the position where he knows roughly what is in the brief, but I do not think it would be proper for me to talk about it. I think they should make their own statement. I am open to the will of the Committee. As I pointed out to them, the Committee would be more than pleased to have a written brief, and I was assured that they could prepare a brief, probably within a week.

**Mr. Forrestall:** If it is done within a week, then because we have a hearing as late as the 27th they could be prepared to come that day, I think.

**The Chairman:** That day?

**Mr. Forrestall:** On the 27th.

**The Chairman:** On that day we are hearing the Canadian Catholic Conference. I think we should have just one witness on that date.

**Mrs. MacInnis (Vancouver-Kingsway):** What is scheduled for the other dates between now and the end of the month?

**The Chairman:** There is nothing on the 20th, but I am not sure whether they could have this done by that time or not; today is the 15th.

**Mrs. MacInnis (Vancouver-Kingsway):** Just to test the feeling of the meeting, I move that they be told that the one date on which they could come is the 20th; let them come if they can do so on that date but not otherwise.

**Dr. Isabelle:** Who was supposed to appear before us on the 20th?

**The Chairman:** On the 20th we were to hear from the Canadian Catholic Conference, or at least this is the date we suggested to them. They have not written but they have been in touch with the Clerk of the Committee and said they would prefer to come on the 27th. I think I mentioned this to the Committee at our last meeting and this is completely acceptable, so as far as we are now aware they are coming on the 27th. On the 22nd we will have the First Unitarian Congregation of Ottawa, which leaves the date of the 20th, next Tuesday, open.

**Mrs. Rideout:** Well, I think the motion ought to be acceptable and I will second it.

**Mr. Forrestall:** Quite frankly, Mr. Chairman, it puzzles me how they could present a brief with such a tremendously large representative body.

**The Chairman:** I point out to you that we do not have a quorum.

**Mrs. MacInnis (Vancouver-Kingsway):** Can we agree to a motion subject to ratification when we get a quorum?

• 1130

**The Chairman:** The Committee has at times functioned without a quorum, and I think we could do it now.

You have suggested that we approach the CLC to say that we are willing to accept a submission before the Committee if they have it ready by the 20th. After that date, we will accept a written submission up to the end of the month.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes.

**Mr. Forrestall:** Mr. Chairman, they could be called today; that would give them enough time.

**The Chairman:** Yes, that is what I mean. The information has been exchanged over the telephone. I have told the gentleman in question that I would call him today. Is it agreeable to the Committee?

**Some hon. Members:** Agreed.

**Dr. Isabelle:** Was not the Association of the French-speaking Doctors of Canada supposed to appear before us on that date?

**The Chairman:** They wrote and said that they would not appear.

**Dr. Isabelle:** They do not want to appear, or they did not have time to prepare a brief?

**The Chairman:** They did not have time, I think was the reason. They have written to the Committee and said that they did not feel they had time to prepare a brief. Originally they were to come on the 20th and their letter reads in part:

We have arrived at the following conclusion. The short time left before the 20th of February unfortunately is insufficient for us to sound out the opinion of our members and to present comments

which would be well-founded. Under the circumstances, our Association regrets that it has to decline your invitation. In the future, providing that time allows us to do so, we would be ready to study this problem to let you know the conclusions we have reached, if it is not too late.

If there are no other comments we should move to the examination of today's brief and witness. We have before us today Dr. Serge Mongeau, the Director of the Family Planning Centre of the City of Montreal. Dr. Mongeau's extensive brief has been in your hands for some time. I will ask him to make a few comments.

[Translation]

**Dr. Serge Mongeau (Director, Family Planning Centre, Montreal):** I am afraid you will have to put on your earphones.

The brief you have in hand is an attempt to define the problem of abortion. In short, it acknowledges the fact that there are illegal abortions taking place in Canada. Without being able to give a precise figure, we can presume that there are too many. It is also noted that today's society is so constituted that many pregnancies are undesired and that, on the other hand, in many cases the same society does not provide the means to avoid these undesired pregnancies by giving access to contraceptives. It is noted that women who wish to terminate their pregnancies have no other recourse than illegal abortion. It is noted that the illegality adds many dangers to abortion and introduces discrimination as to its availability. Finally, it is noted that we can expect that in the next few years the desire for abortion will increase.

In our brief we have also proceeded with a brief examination of the situation in other countries, in a study of their legislation and its consequences. We then considered the various attitudes which we could take with regard to the problem of illegal abortion. We are aware that no solution will be perfect; abortion is in fact a necessary evil and, given in the present state of our knowledge, we can only avoid it by a lesser evil. Since the preparation of our brief a specific bill has been presented in the omnibus bill; we find it has a great resemblance to the legislation of several American states. The authors of the brief have found that such a bill is better than what we had prior to it; however, it constitutes a very imperfect formula because

it encourages discrimination, that abortion will be accessible, as has been noted in the United States, only to those who have the financial means for it.

• 1135

There is a question which we would like you to study more particularly, which is: do you really wish to help women with undesired pregnancies? If so, we believe that much more than legislation will be necessary. We are thinking of such organizations as in Denmark, for instance, where they have "Mothers' Assistance" organizations which counsel the woman with an unwanted pregnancy and help her to accept it or else present her case before an abortion committee.

We also find that studies on illegal abortion are lacking in Canada and we are wondering if every effort has been made to obtain more data on the problem. For instance, I am thinking of the measures such as the one undertaken to find toxic drugs. The government wrote to all doctors asking them to report all the cases in which certain drugs have produced harmful effects, even if these were just suspected effects.

Also, there is information from the hospitals which could be studied. If we could obtain the statistics which they have on abortions—they do not have them as such, but if we asked they could find some. If they studied the problem they could quickly enough give us better figures.

These are the comments we have made. In conclusion I would like to point out that the brief of the Family Planning Centre in Montreal, which we are presenting has not been given the final assent in its final form from all the members of the advisory board; many of those members could definitely not make a statement. The Department of Health of the Province of Quebec, for instance, has a member on our advisory board and we could not ask this department to express its opinion. Therefore, the opinions expressed are those of the authors of the brief and, as we have pointed out, it was a multi-disciplinarian team.

[English]

**The Chairman:** Thank you, doctor. Before we proceed to question the witness, is it agreed that today's brief and four appendices, as well as a letter from the member of the Association the doctor represents, become part of today's record?

**Some hon. Members:** Agreed.

**The Chairman:** The meeting is open for questioning.

[Translation]

**Mr. Isabelle:** Dr. Mongeau, are you for or against the bill which is presently before the House?

**Dr. Mongeau:** As I said before, I find that it is better than what we have just now. However, I think it is certainly very imperfect, and what I fear is the fact that when you change a law, you change it for a long time, and I think that before we amend it we should think about it seriously and have complete and comprehensive legislation.

We are of the opinion that only in providing additional measures will we help women who do not want to have a child and promote a decrease of abortions in Canada. However, if you only have a more liberal law on abortion I do not think you will solve the problem at all. We will simply enact a certain transfer of illegal abortion to legal abortion, but actually there are very few of these because we have found out that everywhere the reasons or grounds for abortion are far more socio-economic in nature than therapeutic.

**Mr. Isabelle:** Did you see the recommendation of the Standing Committee on Health and Welfare—the interim report we tabled in the House before Christmas?

**Dr. Mongeau:** I have read it, but I do not remember it too well.

• 1140

**Mr. Isabelle:** That interim report said:

“when pregnancy will seriously endanger the life or the health of the mother.”

What do you think of this? Are you at all preoccupied about the word “health”? When we want to clarify the Criminal Code and add: “will seriously endanger the life or health of the mother”, would you agree to something of this kind?

**Dr. Mongeau:** No, not really.

**Mr. Isabelle:** Why?

**Dr. Mongeau:** Because when you qualify it by saying: “seriously”, you are at the mercy of the definition given to “serious”. Health also has various interpretations which can be very far-reaching. I think that with legisla-

tion such as this, where you have to interpret it, there may be some discrimination. For instance, a woman who has money can find a doctor who can defend her successfully because she can obtain one who has always won when pleading before an abortion committee. Whereas, another with no money has to take the first doctor she finds. She may not be able to choose her doctor, and if the doctor is not a good lawyer, she will have to continue her pregnancy. I think we are encouraging discrimination.

**Mr. Isabelle:** If we stick closely to the definition of health, perhaps, but there are certainly social and economic conditions implied. Health is not simply the absence of illness, it is much more positive. If we simply consider the social and economic aspects, we could perhaps adopt legislation which is wide open, such as that adopted in England, but if we rely strictly on the definition of health, then we cannot take the definition only from the social and economic point of view. It will have to be a complete definition.

That is why I think that the difficulty arises from the fact that the definition of the word “health” is not clear in the mind of everyone. We do not agree because we are talking of different things. For example, I cannot understand when the danger to the mother's health begins, as mentioned in the present law. Must we wait until a woman starts to bleed? At what precise moment is a woman's life in danger? For life to be endangered it means that the health must first of all be gravely affected. The purpose of the law is to clarify the present Criminal Code by broadening it, bearing in mind the doctors who are faced with a phenomenon of serious danger to the life of the mother. When the life of a mother is threatened, first of all, her health is endangered.

**Dr. Mongeau:** If we return to the WHO definition of health, it includes socio-economic conditions.

**Mr. Isabelle:** Necessarily.

**Dr. Mongeau:** This is where I say there is a danger of interpretation. There will always be a psychiatrist who can say that from a psychological point of view the health of the mother will be affected. But not all women can have recourse to a psychiatrist. What we would advocate, whatever the legislation, is the simultaneous establishment of a body which would be able to help women in the

preparation of the applications they will submit to such a committee. In many cases the application would not even be made. If the woman had other ways of being helped, such as adequate emergency loans and adequate care, then it is my impression that she would often change her mind and that her pregnancy would not result in an abortion.

**Mr. Isabelle:** Are you suggesting that the doctors forming a therapeutic abortion committee, as we suggest, could be bribed?

**Dr. Mongeau:** Yes.

**Mr. Isabelle:** They are not good doctors, then.

**Dr. Mongeau:** There are good doctors and some who are not so good.

**Mr. Isabelle:** These therapeutic abortion committees would sit in the hospitals. The hospitals would be responsible for these committees. These would be voluntary committees. Do you not believe that something might happen because they are voluntary?

**Dr. Mongeau:** Not the committee but the person who presents the application to the committee will be bribed. One of the persons who drafted our brief worked in New York for a few years and attended the discussions of these committees. He said that some doctors prepared their cases so well that all their cases were accepted, while other doctors who might be good doctors but who did not take the trouble of emphasizing all the implications and the whole social situation of the patient had their applications refused. It was not the members of the committee who were bribed but the person who presented the case who was more or less competent. That is why I think that if we want to ensure justice, we will have to have an organization to which people who have no money can apply to have their cases prepared for presentation to a committee.

• 1145

**Mr. Isabelle:** That is why in the United States there are four times as many therapeutic abortions among people who have money than the others.

**Dr. Mongeau:** Precisely. And the proposed legislation would correspond exactly to theirs.

[English]

**Mr. Forrestall:** I wanted to direct a question to the doctor, if I might, Mr. Chairman.

In several places in your brief you have made reference to the inadequacy of reliable statistical data. About a month ago one of the members of the Committee in the House of Commons raised the question whether your day-to-day work is seriously hindered or interfered with by the lack of adequate research work being carried out by the Dominion Bureau of Statistics, for example, in the field of welfare. In other words, we can tell you how many tons of sand were moved from point A to point B, and how many cords of pulpwood and how many tons of fish, but we cannot tell you with accuracy, outside the private institutional field, for example, how many parents there are in Canada today who are looking for children to adopt. Do you find that the lack of this type of evidence hinders you? Do you run up against this lack in your day-to-day work?

**Dr. Mongeau:** Yes, and that is why we are asking for more and more research. The research which is done by the Dominion Bureau of Statistics or anybody else is all right, but we are asking for more. One of the functions of our centre is research in the field of family planning.

**Mr. Forrestall:** I have drawn certain conclusions, but whether they are correct or otherwise I am not sure. However, the brief certainly has at least made some attempt to find statistical evidence to support the view that this is a very complex question. You have very obviously done a considerable amount of research when related to some of the other briefs we have received. In other words, I am not suggesting that your brief is self-serving in any way at all.

For example, in the conduct of your day-to-day business in Montreal do you maintain close association with a number of parents who might want to adopt children? Could you estimate how many families there may be who are looking for children to adopt in Montreal today?

**Dr. Mongeau:** It would be possible to find out how many people asked for children to adopt. It is not possible to know how many of these people have the desire to adopt "one of these days".

**Mr. Forrestall:** For example, how many have made applications to one or more agencies?

• 1150

**Dr. Mongeau:** It is possible to ascertain this because there are only a few agencies in Montreal and they have a waiting list.

**Mr. Forrestall:** Have you any idea how many names might be on those waiting lists?

**Dr. Mongeau:** I know that two or three months ago at the agency where I work there were 200 names before evaluation. This was not for adoption, it was for foster parents.

**Mr. Forrestall:** For foster parents.

**Dr. Mongeau:** Yes. I know in Montreal they actually have more children to place than people to receive them.

**Mr. Forrestall:** Is that right?

**Dr. Mongeau:** Yes.

**Mr. Forrestall:** In the field of adoption or in foster parents?

**Dr. Mongeau:** In the field of adoption. Nearly every week in *La Presse* there is a photograph of a child whom they want to place and it is because they have a lot of children that they cannot find a home for them.

**Mr. Forrestall:** From your experience, would this generally be the case across Canada?

**Dr. Mongeau:** I do not know.

**Mr. Forrestall:** You do not know.

**Dr. Mongeau:** I know on the English side they have fewer difficulties.

**Mr. Forrestall:** Doctor, could you suggest to the Committee—and I agree with you 100 per cent, I think there certainly has to be some more research work done on this question and in much greater depth—certain methods or areas to which this Committee might direct its attention to that end?

**Dr. Mongeau:** I have suggested two methods; to write to the doctors and to make contact with the hospitals. I am sure there must be many others I can not give them now because this is a field that needs investigation, but I know if we had the assignment to do something we would look at the social aspects of the problem.

**Mr. Forrestall:** Thank you, Doctor, very much.

**Mr. Enns:** Mr. Chairman, initially I was very excited when I saw this brief and I was also excited by the fact that it was claimed to have been prepared by a multi-disciplined committee. I think some of us on this Committee feel that we do not have enough knowledge and therefore we should have more expertise on this matter to give us direction. As I read through the brief, however, it became more and more apparent that expertise is not really going to help us in this broad moral question of abortions because we are going to have to work within the climate of public opinion. At any point in the development of society there always has been an opinion against any behaviour which later became accepted as normal, and even as you said on page 2 of your brief, within the six disciplines the discussions were often warm. I presume you really mean hot and argumentative. I wanted to make these comments before I asked you any specific questions.

• 1155

On page 1 you mention that there were a number of disciplines represented, but in the English translation of your text the endorsement of the Committee was left blank. Can you explain just who endorsed this brief of your agency?

**Dr. Mongeau:** Who endorsed it?

**Mr. Enns:** Yes, the sentence in the first paragraph reads:

Therefore, this brief is endorsed only by the of the drafting committee.

Possibly in the translation it was omitted.

**Dr. Mongeau:** Only by the members.

**Mr. Enns:** Only the members of the drafting committee?

**Dr. Mongeau:** Yes.

**Mr. Enns:** And the drafting committee would have included a multi-disciplined background of people? Is this correct?

**Dr. Mongeau:** We had a gynaecologist, a sociologist and myself.

**Mr. Enns:** I see. So this Committee saw the final draft of what you are discussing?

**Dr. Mongeau:** Yes, with the suggestions of the others.

**Mr. Enns:** The reason I expressed an interest in this is because, as I said, it seemed to

me we were getting some well-documented material in your brief, but as we read right through to page 43—I suppose yours was the longest brief to be presented to our Committee—you came up with no final solution and no recommendation for the solution of such a complex problem. On page 2 you led us on by making the statement that “seldom does a day go by in Montreal without someone being admitted to a hospital in very bad shape because of an abortion that has gone wrong”, so in the way you point out the need. Your brief then goes on to show a series of statistics which reveal the extent of the problem and this is set out very well. You satisfy us there is a real need.

On pages 7, 8 and 9 you discuss the socio-economic reasons which support birth control and abortion; you even discuss how housing, urban overcrowding and the lack of recreational space have a bearing on the problem, and you lead us to believe that you really are going to give good reasons for advocating something.

On page 15 you even include the statement that there will be “a greater desire for abortions” in the immediate future and this is over the short term plan. On pages 15 to 30 you show how six other countries have dealt with the problem of abortion and you excite us into thinking that perhaps you will be able to come up with a possible solution—you suggest you will do this on page 31—and there you lose us.

You speak about possibly doing nothing for the time being and you say that perhaps more study is needed. On page 39 you say it seems, “that the best legislation—is that in which no definite limits are set”. I guess you had Denmark in mind, where counselling deals with what will be done.

This is why I am disappointed. You promised so much and then you made no final recommendation on the grounds that the problem is so complex that you need more information. You also want us to be sure we can make a complete, correct and adequate change before we alter the law at all. Is law-making not an evolving thing? Are we not continually amending such laws as those governing pensions? Have we not done something and then improved it? What about medicare? Have we not amended this even before it came into effect? Then there was the question of capital punishment and income tax. We are constantly amending the statutes

of Canada. Therefore I do not quite understand your plea that we hold off and do nothing until we know exactly what is the right thing to do.

Are you not persuaded by the volume of evidence—even in the appendix you state that 85 per cent of doctors are in favour of abortion and in your questionnaire 247 women out of the 314 questioned declared an inclination to support changes in the Act—to even recommend that the suggested proposals in the amendment to the Criminal Code presently before the House would at least be a step in the right direction?

**Dr. Mongeau:** That is what I did say. I said it is better than what we have at present, but it is very far from being perfect.

• 1200

**Mr. Enns:** I accept that.

**Dr. Mongeau:** That is the reason we did not take any definite position. We did not want to make the common mistake of taking a position too early and before we knew all the facts. You know very well that abortion is a different problem entirely from pensions. It does not have the same effect. If we have some trouble on the economic side we can increase taxes the next year and the problem is solved, but abortion is not in the same category. I also think that perhaps we are not emotionally ready for such a change, even if some people feel we are. I do not think they really are ready. I also think it would be too easy a solution to change the law without doing something to ensure that the need for abortion will be diminished. That is the important point. If we really want to lower the number of abortions that take place annually in Canada, we must at the same time do many other things, and if we take the easy solution of changing the law for the sake of a change and allow these other conditions to continue to exist, I do not think anything will change. In fact, we will have more abortions, as has been proven in some countries where abortion is legalized. We do not think this would be the best solution. It will be a solution in some cases after the other things have been done, but it is not the best solution.

**Mr. Enns:** None of us look on this amendment as the best solution to the question, but I believe from the evidence we have heard that there seems to be general agreement that it is a very serious problem which begs some answer.

I gather the main work of your agency is in the birth control field which, of course, ties in with abortion as it would diminish the need for abortion. However, you have other statistics that show there will always be an accident or a mistake, and that the demand for abortion will never be completely wiped out.

**Dr. Mongeau:** It will be very low.

**Mr. Enns:** I hope so, I sincerely hope so. Then actually you are operating outside the law in the birth control area with the sanction of public opinion. This is my point again. You are doing this because the public wants it and we recognize it as a socially desirable action, the family planning activity of your agency, and I suggest to you again it is going to be the climate of public opinion, rather than what certain experts, medical, social, economic or whatever experts we might want to marshal to give us facts, that will help to shape the law. I suggest to you that there is a readiness in this country for a liberalization of abortion laws now for very good reasons.

[Translation]

**Dr. Mongeau:** Do you not think that it is the responsibility of the government to enact legislation that will enable society to work towards better conditions? If all we do is follow the trend, are we to legalize theft because there have been thefts for years? Let it be legalized! We are doing the same thing with abortion. We have the opportunity at this moment to do much more and this is a unique opportunity. If we do not profit from it, now, I think that we will be missing a precious opportunity. It should be a *sine qua non* condition joined by legislation, and parallel measures should be instituted to complement the process. One should not be done without the other because of the decisive character of legislation. If we stop at legalizing abortion, we will have an increase in their number and I certainly think that the objectives of the Committee are not to make life easier, but to find a solution to the problem of illegal abortions and their consequences.

[English]

**Mr. Enns:** Yes. I agree that we should not do one without the other. For example, in the divorce legislation really we are thinking of making marriage not more difficult but more realistic; have people go through counselling before marriage, and so forth.

• 1205

In the suggested amendments, of course, we do talk about an abortion committee dealing with the application of a woman for abortion, but do you not believe that committee will have to ask, what other solutions are there to this application; is this really necessary; have you had counselling from your priest or your church or from a psychiatrist, and so on? I really think that in an imperfect way there are safeguards, but I do not want to pursue this Mr. Chairman. Thank you, very much.

**The Chairman:** Mr. Howe?

**Mr. Howe (Wellington-Huron):** Mr. Chairman, I was rather interested in the statement that Dr. Mongeau made this morning intimating that the desire for abortion is going to increase. Why?

**Dr. Mongeau:** Because we are doing publicity for family planning and you know that family planning and abortion want to respond to the same necessity. The society is going more and more in such a direction that less children will be desired, and if we try to make motivation for contraception we make people understand that maybe it is better for them to have less children. This is the first point that they will catch and it may take a few years before they catch the second point which is to have a good contraceptive technique. In the meantime it is possible for them to have children but that they do not desire them.

**Mr. Howe (Wellington-Huron):** You intimated that a lot of the abortions were created by social and economic situations, did you not?

**Dr. Mongeau:** Yes.

**Mr. Howe (Wellington-Huron):** In this social area how will it increase? What is going to happen in the social area we are in now that will cause the increase in the desire for abortions?

**Dr. Mongeau:** This is a part that we treated in our brief. There is the need for houses; people do not have...

**Mr. Howe (Wellington-Huron):** Is that not economic?

**Dr. Mongeau:** Social-economic I think.

**Mr. Howe (Wellington-Huron):** They are linked together are they not?

**Dr. Mongeau:** Yes, because they have too small houses I think it is a social thing at this time; it may be economic because they do not have the money to rent larger houses and also the need for education, because more and more children need special attention and special care from their parents and you have also the problem of the women that want to work outside of the house. With many children they cannot do such a thing so the children will not be desired if they chain her to the house. I think they will not be very happy.

**Mr. Howe (Wellington-Huron):** In other words, one of the reasons for the increase in the desire for abortion could be deterioration of the social-economic situation in the nation. We need better housing, better living conditions, more education. You almost intimate that you feel these are going to continue to deteriorate.

**Dr. Mongeau:** Yes, maybe, if we do not adopt a policy that...

**Mr. Howe (Wellington-Huron):** In other words, we should have a change of government?

**The Chairman:** That is a political question.

[Translation]

**Dr. Mongeau:** Without a family policy, we will be getting nowhere. The amount of our family allowances is absolutely ridiculous as it does not compensate at all for the cost of each child. This is the reason why people will not want large families, mainly for economic reasons I believe.

• 1210

[English]

**Mr. Howe (Wellington-Huron):** Are you implying, sir, that it is up to the government to pay the entire cost of each child, including education, clothing and feeding, through government allowances?

[Translation]

**Dr. Mongeau:** No, but I believe that society has the duty of being hospitable to children. We need children if we want to survive as a nation. To date, it has been up to the parents to prepare the future citizens of Canada. I believe the state should contribute more if we want people to go on having children. Fewer and fewer people will have children because of ignorance; they will have children when they want them and if the social conditions are unfavorable, they will not have them.

[English]

**Mr. Howe (Wellington-Huron):** Does your family planning organization not help people that are having trouble economically but advising them how to budget their funds; how to set aside a certain amount of money for the children and look after them properly? Do you not help parents that come to you in that way?

[Translation]

**Dr. Mongeau:** Yes. The Family Planning Centre refers people having these problems to various social agencies which are there to do exactly what you describe. However, these functions are residual ones; they cannot be other than temporary. A family cannot live all its life with such help; it is not normal. When a family cannot make ends meet simply because the man has an insufficient salary, and when such a situation repeats itself too often, then one could say that the minimum wages should be raised. I feel that the state should intervene at this stage.

[English]

**Mr. Howe (Wellington-Huron):** Of course, there are minimum wages in most provinces and there are also minimum wages in federal organizations.

[Translation]

**Dr. Mongeau:** Do you believe the wages are sufficient?

[English]

**Mr. Howe (Wellington-Huron):** They were set by the government of Canada. I do not say they are sufficient, but we are not discussing minimum wages here, sir, we are discussing family planning and the reasons you feel there is going to be a greater desire for abortions as the years go on unless we improve our social and economic situation in the nation. I do not think this is all going to be improved by subsidies to assist parents. I think it may be through making it possible for parents to make more money for man to get a better wage, but I do not think it is going to be by a tremendous increase in the family allowance.

[Translation]

**Dr. Mongeau:** It is one solution. I did not say that it was the only solution. I gave you one example, then that of family allowances, proving that our society does not truly help families in Canada troubled with the many problems of too many children. This is one way of helping. There are many other ways,

such as better education, low cost housing, child care, which we will have to have eventually, better health, and a whole flock of other things.

[English]

**Mr. Howe (Wellington-Huron):** Further to what Dr. Isabelle said and in connection with the committee set-up in hospitals, there is an implication in this brief that it is much easier for wealthy people to get abortions than it is for poorer people. However, in the same brief you also say that one of the reasons the people in the lower income brackets are not permitted as many abortions is because public patients register in clinics too late in the course of their pregnancy. In other words, it is more a matter of education. It is not a matter of dollars or bribery so far as the committee is concerned. It is not because you are an important person you can get an abortion a little easier than someone who is in a public ward.

[Translation]

**Dr. Mongeau:** One of the reasons there are fewer therapeutic abortions for underprivileged people is that they come in too late. This is only one of the reasons. There are many other reasons.

• 1215

[English]

**Mr. Howe (Wellington-Huron):** This is true, and when it comes too late it is a much more dangerous and complicated program. Therefore their cases are turned down more often than other cases that come in the early stages of pregnancy. So, it is not altogether an economic situation with regard to abortion being granted by the committees in the hospitals.

[Translation]

**Dr. Mongeau:** This is only part of the problem, it is not the whole issue. There is the question of education certainly. This relates to a social and economic question and whether a person is more or less educated, more or less aware of the facilities offered by society. The people who do not come in are those who do not know they can be helped, for example, to terminate an unwanted pregnancy. This is again a question of education and we are going back to social and economic questions.

[English]

**Mr. Howe (Wellington-Huron):** This is true. It is not always because the person lives on

the wrong side of the tracks; it is a matter of knowledge, education, and things like that, which enter into it just as much as economics.

Thank you, Mr. Chairman.

**The Chairman:** Mrs. MacInnis.

[Translation]

**Mrs. MacInnis:** Mr. Chairman, I really wish I could question Dr. Mongeau in French, but unfortunately I will have to limit my remarks to congratulating him for the tremendous amount of work he did in preparing this brief this morning.

[English]

If I want to be at all useful I will have to ask my questions of you in English. I want to say first of all that you have put before us a great deal of very carefully research information which is enormously valuable. I then want to associate myself with Mr. Enns' remarks. I hope you realize that we are in the position where we shall have to make some kind of a report or reach some kind of a decision. We were hoping very much that you would have some recommendations to make. Of course, this would not be for the perfect state of society or for a perfect solution, because we can never arrive at a perfect solution. We have to realize—and your brief shows it clearly—that there will be more abortion, and that pressures will increase. You have given us a figure showing that scarcely a day goes by without a woman being admitted in very bad shape as a result of an attempted abortion. You say, in the province of Quebec:

...there is a minimum 10,000 provoked abortions per year in Quebec, while the maximum number cannot exceed 25,000.

These are very startling figures and they only indicate one thing, that women are going to continue demanding abortion and we can only try to hold the lid on. We had a group of women here the other day who said, "We believe it is the truth, you cannot hold the lid on. If they cannot get them legally they will get them illegally." In view of all this I want to ask you several questions.

First of all, would it be possible for you to give this Committee an itemized list of those conditions that we should include in our report. For instance, if we included the need for housing, for counselling, for better family allowances, perhaps for allowances for mothers bringing up children in their families, and other things, as definite recommendations,

would you then be prepared to support as a ground for abortion in addition to the words, "to the life of the mother being in danger", that her health was also in danger?

**Dr. Mongeau:** Yes, if you do not put it just as a recommendation but as a *sine qua non*, I think.

**Mrs. MacInnis:** As a *sine qua non*. If in the legislation we say these things must go together, you would be prepared to do it?

**Dr. Mongeau:** Yes.

● 1220

**Mrs. MacInnis:** Knowing that we will not get all that at once, would you be prepared to widen the discretion under the law and to allow doctors in hospitals to decide on this matter when the health of the mother is in jeopardy? Would you be prepared to allow the doctors to be the ones to decide?

**Dr. Mongeau:** Not the doctors alone.

**Mrs. MacInnis:** Who else?

**Dr. Mongeau:** I think a committee is important.

**Mrs. MacInnis:** But who should be on the committee apart from the doctors?

**Dr. Mongeau:** I think the best formula that we found was the one used in Denmark.

**Mrs. MacInnis:** And who was on that committee apart from the doctors?

**Dr. Mongeau:** There was a representative from the Mothers' Assistance.

**Mrs. MacInnis:** Yes.

**Dr. Mongeau:** Two doctors—three is enough—but there was someone from the social side.

**Mrs. MacInnis:** Yes. In other words, the therapeutic abortion committee should be made up of two doctors and somebody such as a social welfare worker or a family counsellor?

**Dr. Mongeau:** I would say one gynaecologist, one psychiatrist and one social worker, or someone from a welfare organization.

**Mrs. MacInnis:** Yes. And you would consider these people qualified to decide when the health of the mother was in danger to the point where she should be permitted to have an abortion?

**Dr. Mongeau:** They would be able to decide if there was a preparation of the cases, if there is an organization which exists that is like the Mothers' Assistance where the woman goes and there is a full work-up done on her case, then after that the representation is made and at that time they would be able to decide, not before.

**Mrs. MacInnis:** Whether or not there should be an abortion?

**Dr. Mongeau:** Yes.

**Mrs. MacInnis:** In your appendix you say:

[Translation]

"As a member body of the advisory committee of your Centre, I wish to offer the following comments.

We favour abortions only in the following cases:"

[English]

**Dr. Mongeau:** Excuse me. Did you read the title above?

**Mrs. MacInnis:** Oh, this is not yours.

**Dr. Mongeau:** No; this is one of the members of our advisory committee.

**Mrs. MacInnis (Vancouver-Kingsway):** Do you agree with these points?

**Dr. Mongeau:** No.

**Mrs. MacInnis (Vancouver-Kingsway):** You do, of course, favour abortion in the case of serious danger to the life of the mother?

**Dr. Mongeau:** Yes, surely.

**Mrs. MacInnis (Vancouver-Kingsway):** You do not favour it in the case where there may be grave danger of deformities in the child?

**Dr. Mongeau:** Yes; I told before that I agree with things like that. But I say that they are very far from perfect. This is not the only thing to do. If you ask me whether I agree with this and this and this, I will not agree with this and this. I would agree with a global project, with, on one side, new legislation and, on the other, an organization that will try to eliminate the need for abortion.

**Mrs. MacInnis (Vancouver-Kingsway):** What would you favour in abortion legislation? We have to recommend what legislation should be enacted. What must we put in it, according to you?

**Dr. Mongeau:** If I had to decide I would not put anything in it. I would first change the law on family planning.

**Mrs. MacInnis (Vancouver-Kingsway):** We are going to do that soon.

**Dr. Mongeau:** Yes, you are going to do that. It is not done yet, and after...

**Mrs. MacInnis (Vancouver-Kingsway):** Go ahead. We will pretend that it is done. What else would you do?

**Dr. Mongeau:** But not only would I change the law; I would also apply it so that family planning was possible for everybody.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes.

**Dr. Mongeau:** Second, at the same time, I would start to do more research to try to find out what is the exact problem and the solution of it.

Thirdly, after one, two, or three years, I would reconsider the question and recommend legislation. At the same time—because you cannot have the one without the other—I would set up an organization to help mothers who have children that they do not want.

• 1225

**Mrs. MacInnis (Vancouver-Kingsway):** In other words, you think we should do nothing at all to the present law.

**Dr. Mongeau:** Not if you start to do something else. If you do not want to do anything else you should change it.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes; but we will not have time to do much between now and the discussion on the Criminal Code bill. As things exist, you say that the law should be left as it is now?

**Dr. Mongeau:** No; as things exist now it should be changed.

**Mrs. MacInnis (Vancouver-Kingsway):** How?

**Dr. Mongeau:** Any way; because we do know that women are having abortions.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes.

**Dr. Mongeau:** You should work on society, so that family planning will be more implemented...

**Mr. MacInnis (Vancouver-Kingsway):** Yes; we are going to do that. But this amendment

before us says that grave danger to the life of the mother is the only ground for abortion now. It seeks to add, as a further ground, grave danger to the health of the mother. What are your views on that?

**Dr. Mongeau:** I do not know, really. I know you are not satisfied with this part of our brief because we do not take a very clear position.

**Mrs. MacInnis (Vancouver-Kingsway):** No; but I am asking because we are caught in this dilemma ourselves. What would you do?

**Mr. Mongeau:** We do not want it to be too clear. We want you to do something other than just change the law. That is the important point. If we do not do anything else there will be fewer illegal abortions but the total abortions will be greater. Therefore, we will not have solved the problem at all.

**Mrs. MacInnis (Vancouver-Kingsway):** I think we understand your position. Thank you very much, Dr. Mongeau.

**The Chairman:** Mr. MacDonald?

**Mr. MacDonald (Prince):** Dr. Mongeau, as other members have suggested, we are very indebted to you for the extensive and exhaustive brief that you have submitted. Your submission and your testimony are of great value to the Committee.

Let me play the part of the devil's advocate and suggest that one valuable thing you have done is not to provide us with easy recommendations. Nearly every group that has appeared before us, apart from yourself, has first of all made recommendations and then buttressed them with, in some instances, a great deal of material and, in others, not too much. Contrary to that, you have supplied us with volume. It contains some of the most comprehensive material that we have had, and yet you have not given us a conclusion, either in your submission or in your comments today.

Added to that, there are the minority reports. They have been a bit more conclusive, actually, though a great deal shorter. This has created a very good over-all presentation.

I think it has perhaps brought us back to reality. We live in a rather strange world around this place. I sometimes think it is a little like being in a penitentiary.

**The Chairman:** Are you speaking as the member for Prince Edward Island?

**Mr. MacDonald (Prince):** No; I am speaking as a Member of Parliament on Parliament Hill, I will let that other world speak for itself.

In the course of many hearings we have become so obsessed with what must be done with the Criminal Code, and have taken this so much out of context, that we have overlooked all its implications. To be fair, other groups have reminded us from time to time and have talked to us about what we must do, but you have made it very pointed by the fact that you have refused to come to conclusions, in terms of recommendations, on what the new act should say. You have raised the problem of how we are going to deal with people who face this very serious question of abortion in a variety of situations.

• 1230

I know you have at least brought me back to the realization that we are not really going to solve the problem simply by introducing amendments to the Criminal Code. In other words, the very fact that we are going to have to define in what way it may, or may not, be a crime to have an abortion performed indicates that this is really just one corner of the iceberg and that the whole iceberg remains.

This presents a real difficulty, particularly for the federal legislature, because we know that the provinces, particularly now and in the last few years, have felt that they have wide jurisdiction, some of which has been encroached upon in the area of social matters relative to health and welfare and education, all of which are very closely linked with this subject of abortion.

Our real difficulty in trying to arrive at recommendations arises at this point. Although we may find some aspect on which public opinion and Members of Parliament find it acceptable to make a change, how do we prevail upon groups with the larger jurisdiction, those dealing with the kinds of questions that you are obviously very concerned about, to take responsibility?

In view of the interesting work that is being done by The Family Planning Centre have you thought about how the provinces, municipalities and private agencies can move in and exercise their responsibility in this whole area?

**Dr. Mongeau:** Perhaps it may require another provincial-federal conference. My salary is paid by the government of Quebec. I think a

provincial government can take on its responsibilities in such a matter. I do not mean a conference as big as the one on the political side, but perhaps you might arrange a meeting between the social agencies and the doctors who must treat this problem, I think they could gain very much from such encounters and if they had help from their government to implement a few things I think it would help. Anyway, the problem will be quite acute a few years from now because, you see, the level of natality is always going down and one of these days it is problem that we will have to face.

So, why not face it now while we have plenty of time before having to do the same as France did at one time, make a law against family planning, this is not the solution. I think it is time now, and it will not be easy. But maybe if they had the chance to change their position and, at the same time, maybe a grant to the provinces to establish an organization like the Mother's Assistance in each big centre, at this time it would be possible.

**Mr. MacDonald (Prince):** This is most interesting. You are, in fact, suggesting that instead of the preoccupation that has concerned many of us, a population explosion, we may have to deal with the result of a population implosion.

**Dr. Mongeau:** That is a problem of all the developed countries. In the world generally there is a problem of over population, but in all the countries that are very developed as we are other problems are beginning.

**Mr. MacDonald (Prince):** Are you suggesting—and I think you suggested this because you did mention federal grants and also referred at the beginning of your response to federal provincial conferences—that perhaps in concert with the development of an amendment to the Criminal Code on abortion there should be a federal-provincial conference mapping out new areas of responsibility and looking for some way in which the federal government and the provinces might work together on this social issue?

**Dr. Mongeau:** Yes; it may be a solution.

**Mr. MacDonald (Prince):** Your particular work interests me and I was not aware from reading your brief that actually you were employed by the provincial government. The Family Planning Agency, then, is a direct creation of the provincial government?

• 1235

**Dr. Mongeau:** No; my salary is paid by the government but a grant is given to the social agencies of Montreal for which I am working.

**Mr. Enns:** Excuse me, you are the same Dr. Mongeau mentioned on page 3 who did the survey in the *Photo-Journal*. Is that correct?

**Dr. Mongeau:** Yes.

**Mr. MacDonald (Prince):** Then you indicate that the work of your centre is relatively new in Montreal.

**Dr. Mongeau:** Yes; we started just last May.

**Mr. MacDonald (Prince):** Are there many others of this kind across the country that are...

**Dr. Mongeau:** No, this is the only organization for the social side of—training and family planning. In some cities there are clinics but we are not a clinic yet. We are working on training that will help people and also doing research in family planning.

**Mr. MacDonald (Prince):** From your experience to date, would you suggest that other provinces give some impetus to the creation of similar agencies?

**Dr. Mongeau:** I think it would help very much because we think we will be useful to the province. We have a program of training all through the province and we go to every big city in the province; there are 13 centres where we give lectures. Also we have a program of 140 hours of lectures in effect all through the province for all the social workers, nurses, doctors that will come and others interested in helping other people in family planning. So I think this is one way of trying to solve the problem of family planning, but there are others also.

**Mr. MacDonald (Prince):** Two or three years ago, The Vanier Institute Of The Family was created with obvious interests in the same area in which you are working. Has there been any communication between your Centre and The Vanier Institute or any mutual assistance in the work that is being carried on by...

**Dr. Mongeau:** No, not yet.

**Mr. MacDonald (Prince):** Not yet. Do you think a useful avenue of stimulation might be for The Vanier Institute Of The Family to

take some lead in developing or encouraging the provinces to consider ventures similar to that in Montreal?

**Dr. Mongeau:** Yes, surely. Also they could give grants for research in this field because there are so many things that we do not know yet.

**Mr. MacDonald (Prince):** Now, you are getting back to that question, because you do state quite clearly that this is one area you think has to receive a great deal more attention in terms of research.

The statistical side has been mentioned with regard to the Dominion Bureau of Statistics doing some work in that area. Was it your thought or the thought of those that worked with you on the brief that some special body might work on this? It has been suggested to us, for instance, that a Royal Commission might be appointed; others have suggested that this Committee might do a much more exhaustive kind of study, perhaps either through travel abroad to visit countries where there is a considerable amount of experience in the whole area of family planning—and specifically abortion—or that we might, perhaps, designate certain people to do research pieces for the Committee that we would examine at a later date. Have you given any thought to those kinds of things?

**Dr. Mongeau:** I say this not to blame you, but you are politicians, and...

**Mr. MacDonald (Prince):** We cannot help it.

**Dr. Mongeau:** I do not think you are the right people to make a study. Even if you go to see what is going on in Czechoslovakia or any other country, what will you see? I do not think you will see much. I think it would be much better if you asked specific people, specialists in different professions, to dig into this problem and try to find some answers to the questions you still have.

**Mr. MacDonald (Prince):** Thank you.

**Mr. Enns:** But those specialists are not going to do the legislating; the legislators are the ones that are going to be accountable to the public and if they are faced with the problem of legislating something they know is going to be unpopular they will not do it. It has to be within the climate of public opinion and it is the...

• 1240

**Dr. Mongeau:** Yes, but included with the specialists you could have also a sociologist or other such specialist who could determine the opinion of the people. This research also could be done. What should be done if you make a change so that it will be accepted or how it would be accepted are things they will be able to answer.

**The Chairman:** Mrs. Rideout?

**Mrs. Rideout:** There is not too much more that I want to ask Dr. Mongeau, but I want to join with the others in mentioning his brief. I am sure that I saw where you said that The Family Planning Centre saw light in May of 1967, but your research must have been going on for some time previous to that. It is interesting that this brief comes through you and the Province of Quebec. Is there a broadening of thinking within your Province that probably is going to spread to the other provinces?

**Dr. Mongeau:** I think so. In one of the appendices, there is a report of a very limited research I made included in the *Photo Journal* just a few months ago. The appendix refers to 300 women, I think, but now it is completed and I have it for 500 women. This is a very limited work because the women were asked to answer if they wanted to, so it is not a good statistical sample. Anyway, I think it means something and of the 504 women, 77.4 per cent are for a change in the law, 13.3 per cent are against, and 9.3 per cent are for and against.

**Mrs. Rideout:** Well I was interested in page 13 where you mention the actual fee of a doctor is \$400. That seems like a quite large figure. Are these figures accurate?

**Dr. Mongeau:** This also is for the same kind of research, but it is a sure thing that we would find exactly the same thing. Do you know that now just to insert an IUD (intra-uterine douche) some doctors will ask \$150. This is not something that is illegal. This is not an abortion. It is just something that will take maybe 15 minutes or half an hour. So, for an abortion, when there is danger of going to prison, it is a sure thing that many doctors ask for quite a lot of money. I knew personally of a few doctors and it was always more than \$400 in cash.

**The Chairman:** In other words, you are talking of the illegal abortions?

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**Dr. Mongeau:** Yes.

**The Chairman:** You did not make that point.

**Mrs. Rideout:** Yes, illegal abortions. In other words, you are paying for the doctor's protection along with the service. Thank you very much, Dr. Mongeau.

**The Chairman:** Perhaps I might clarify one point here. I do not think we want the wrong assumption to be made. I think we can assume—and Dr. Mongeau can correct me if I am wrong—that this brief does not come with the approval of the Quebec Government. I think Dr. Mongeau's organization is supported by a grant from a welfare agency which, in turn, comes from the provincial government, but the brief has not been perused or approved in any form by the Government. Is that correct?

**Dr. Mongeau:** Yes.

**Mr. Stanbury:** Mr. Chairman, it is some kind of a reflection of the social revolution when an organization like this, which is perhaps unique in Canada, springs up in Montreal. I think we should be grateful for this kind of leadership coming from the social agencies in Montreal, if not from the Quebec Government.

**Dr. Mongeau:** I think you have a wrong idea of Montreal.

• 1245

**Mr. Stanbury:** No, I do not, but I think perhaps some others do. Scarborough, I thought, was the leader in this field and now I am glad to hear Montreal is coming along somewhat after Scarborough but still very active.

**The Chairman:** I mention to you that that is only because the medical officer of health of Scarborough is an ex-doctor from the town of Weston. Perhaps I might just make one comment in keeping with what Mr. MacDonald said. Dr. Mongeau's brief is one of the most extensive and most detailed in going into the background of many countries but in the end, after all of that examination, he does not make any recommendations. Perhaps this is a very serious thought for the committee to take away. Are there any other questions or comments?

**Mr. Stanbury:** This question may have been answered, Mr. Chairman, but I am interested

to know how this material was gathered and how authoritative it is. Perhaps you have already told the Committee.

**Dr. Mongeau:** All the references are written inside.

**Mr. Stanbury:** Yes, but did your organization gather this material? You did this yourself, did you?

**Dr. Mongeau:** No. We have two full-time persons who worked on this and also, a gynaecologist from a hospital in Montreal who worked on it. From each one we gathered what we could find and also, at the Centre we have quite a lot of information that we have in this.

**Mr. Stanbury:** It seems to me this is more information in one place on the subject than we have seen before. Someone has done a lot of very valuable work. It may save the Com-

mittee some time if we can satisfy ourselves that it is authoritative.

**The Chairman:** As Dr. Mongeau has said, the references to it are at the bottom of each page, so it is well authenticated.

Are there any other questions or comments? If not, I would like to thank Dr. Mongeau for actually coming back before the Committee. This is Dr. Mongeau's second appearance. He also appeared before the Committee on our terms of reference on birth control. Is that not correct?

**Dr. Mongeau:** At that time, for the Family Planning Centre of Montreal.

**The Chairman:** Thank you very much. The meeting is adjourned until Thursday but perhaps Tuesday, depending upon whether the Canadian Labour Council are able to present a brief by that time.

## APPENDIX "UU"

[Translation]

A BRIEF DEALING WITH ABORTION PREPARED BY A COMMITTEE SET UP BY  
The Family Planning Centre, 3415 St. Urbain Street, Montreal, P.Q.

*Introduction:*

The Family Planning Centre is a new organization which saw light in May 1967. Explanatory notes on its operation are appended hereto.

Following is the background to this brief:

First, the Centre was authorized by its advisory committee, which comprises representatives from several public, semi-public and private organizations, to consider the problem of abortion. The regular staff of the Centre, which includes one social worker, one sociologist and one community-planning doctor, were assisted in the discussions which led to the drafting of this brief by three other experts: one Catholic theologian, one psychiatrist and one gynaecologist. The brief was written by the sociologist, the gynaecologist and the community-planning doctor, who were helped by comments from members of the advisory committee. Extremely short delays prevented consultation on the final report with members of the advisory committee and other experts which had taken a hand in the development of the plan. Therefore, this brief is endorsed only by the members of the drafting committee.

This brief is the result of study and research by a multidiscipline group and it is submitted as such. In the view of the Centre, that was the only rational approach to a problem as complex as that of abortion; as a consequence, the Centre has difficulty in understanding why your Committee did not deem it advisable to retain the services of experts, who could devote all the time required to carry out a complete review of the many facets of the problem under consideration by you.

In tackling the problem of abortion, the Centre is well aware that it is a delicate matter, but still one on which it cannot close its eyes: abortion is intimately related to contraception as, indeed, both tend towards the same purpose: which is prevention of child-birth at a time considered undesirable; however, there is a major difference between these two interventions: one takes place before and the other after the start of preg-

nancy. Therefore the former implies a plan, meaning foresight, of which some persons are not capable; furthermore, the conditions which form the basis of the plan may change, and the pregnancy which was desired at a given time may not be desired later. These two factors explain, at least in part, why certain persons in need of contraception resort to abortion. Being specialized in family planning questions, the Centre is more and more often requested to provide assistance to women facing undesired pregnancy.

The position taken in this brief on the problem of abortion is very clear: in our modern society, there are too many abortions (regardless of their number); we wish that adequate action could be taken to reduce the incidence of abortion and we do not believe it possible to repress abortion by the mere prohibition of it. The problem is a highly complex one and the solutions to it will be all the more complex.

The following study has only two objectives: to make available to the Committee on Health and Welfare objective information, without which decisions would not be possible, and to suggest possible alternatives, with the consequences of the various options made and the means to avoid resulting deplorable situations.

This brief was not prepared without encountering difficulties: there is a lack of accurate data in many fields, which only costly scientific studies could provide; in addition, in this field which so deeply involves the scale of values of so many people, it is always difficult to remain objective: discussions were often warm between the six experts, each of whom had very different training and, indeed, very different experience. Agreement was only made possible because of the sustained concern of all for a submission as complete as possible.

*Chapter 1: There are abortions in Canada:  
Number:*

Although prohibited by law, abortions are carried out in Canada. We do not know what magnitude this problem can have. Many estimates varying between 100,000 to 300,000

abortions per year are suggested, but no one can prove them. Depending on whether they serve one's cause more or less well, the figures used are more or less high.

In spite of the inaccuracy of these data, we can suspect that the problem has a certain extension: one has only to see what is going on in the emergency wards of large hospitals, in Montreal, for example, to realize quickly that one day seldom goes by without a woman being admitted in very bad shape as a result of an attempted abortion. And from time to time, we find press reports that a woman died as a result of abortive processes.

On the basis of 100,000 abortions per year, the number which is most frequently put forward, this would mean that one pregnancy out of five would end that way in Canada. This proportion is close to the estimates for the United States and Great Britain and it is well below that of France, where supposedly one pregnancy out of two is thus terminated. But those countries do not have more accurate statistics on the problem than we have.

In an attempt to get a little more precise idea of the size of the problem, we have consulted with the Department of Demography of the University of Montreal. This Department examined the situation in Quebec. Based on certain constants noted in other countries and on indirect evidence, the Department of Demography could only provide us with the minimum and maximum possible numbers; in the estimation of the members of the Department, there is a minimum 10,000 provoked abortions per year in Quebec, while the maximum number cannot exceed 25,000. According to these demographers, chances are that the actual figure is closer to the minimum than it is to the maximum, as it seems evident that such disposition of undesired pregnancies is not an integrated part of the traditions of that province. No inference based on the figures for Quebec can be made for the rest of Canada, because mentalities may differ widely elsewhere.

*Characteristics of women who cause themselves to abort:*

Emphasis was placed on the inaccuracy of our estimates on the number of abortions in Canada. All the more reason, we must regret the lack of data on those resorting to abortion to dispose of pregnancies considered undesirable.

In an attempt to somewhat obviate this lack of information, a member of the group proceeded to a sample survey last year. Dr. Serge Mongeau, in his position as medical columnist for *Photo-Journal*, a Montreal weekly newspaper with a circulation of about 140,000, asked his female readers to indicate whether they had ever resorted to abortion and how they had proceeded. The questionnaire was intended for all those women who wanted to answer, whether or not they had ever caused themselves to abort. In view of the very little knowledge we have in this field, we thought that it would be useful to incorporate the results of that survey into our brief. The following is an excerpt from the final report written by Dr. Mongeau:

"On November 16, 1966, we published in *Photo-Journal* a questionnaire dealing with abortion, in the column headed TODAY'S MEDICINE. The same questionnaire was printed again the following week. We received 198 answers, 6 of which had to be discarded because they were incomplete.

#### Coverage of the survey

It is not possible to expect that that survey will confirm the number of abortions per year: indeed, only the female readers of *Photo-Journal* who were more or less directly interested in the problem were likely to answer. And as *Photo-Journal* does not reach the entire Quebec population, many people did not even know that such a survey was being held.

Moreover, to facilitate answers, we asked a few simple questions only hoping that more women would complete the questionnaire. We therefore left aside several aspects which could have been of interest.

#### Answers

We divided the 192 retained questionnaires into two groups: the first one included women who never had abortions: they totalled 70. The second group was for women who had abortions or were assisted to achieve similar results: they totalled 122. We will consider these two groups separately.

#### No abortions

Out of the 70 women who never had abortions, 66 are married; they are on the average, 31.6 years old. The youngest one is 20

and the oldest is 57. The following table shows a break-down of the respondents by age:

Age	Married	Unmarried
20 to 24 years....	11	2
25 to 29 .....	18	2
30 to 34 .....	14	
35 to 40 .....	11	
40 to 45 .....	3	
45 or over .....	9	
	—	—
Total .....	66	4
	—	—

Thirty-five of those 70 women lived outside Metropolitan Montreal.

Although they never had abortions, their answers were significant: to the question "Did you ever consider abortion, without being able to go ahead with it because you could not find a person to carry out the abortion?", 22 out of the 66 married women answered yes; most of them did not specify how many times. To the other question "If abortions had been permitted at the hospital, is there any one of your pregnancies which would have been terminated that way?", 31 married women answered yes. Only 32 out of the 66 answered no to both questions.

As for the unmarried women, all four of them said that they had considered abortion, but had to forget the project, failing assistance.

#### One or more abortions

In greater number are those who aborted at least once, either by their own means, by "helping" a miscarriage, or with the assistance of somebody else, doctor or non-doctor.

Out of 122 women in that case, 80 are now married: they are between 21 and 67 years old, averaging 35.2. Out of the 42 unmarried women, 21 are less than 25 years old. The youngest one is 17 and the oldest is 38, with an average of 24. Following is a breakdown by age:

Age	Married	Unmarried
Under 20 years...		6
20 to 24 .....	9	15
25 to 29 .....	21	11
30 to 34 .....	9	7
35 to 39 .....	21	1
40 to 44 .....	9	
45 or over .....	12	
Not specified....		1
	—	—
Total .....	81	42
	—	—

It seems easier to have an abortion carried out in Metropolitan Montreal, as only 24 women out of the whole group live outside that area.

#### Abortions without assistance:

To the question "If you had miscarriages, did you "help" any of them?", 47 women answered yes. Altogether, they "helped" 81 miscarriages, 37 married women accounting for 66 of them, including 60 after their marriage. As far as unmarried women are concerned, 10 of them provoked 15 miscarriages. It seems that in many cases, they ended up in the hospital for curettage.

Women carry out their abortions themselves because they cannot do otherwise: 31 women in this group (out of 47) say that they could not find anybody to assist them; 25 of them specify that on 52 occasions they could not find the assistance desired; the other 6 do not give any details. Insofar as hospitals are concerned, 35 women would have gone there if abortions had been allowed. Only 5 would not have used that facility; the other 7 did not answer the question.

On the whole, 40 out of 47 women would have resorted either to an abortion expert, if they could have found one, or to the hospital, if abortions had been lawful.

#### Abortions with assistance:

The 104 women who claim they have "resorted to another person's services" to have an abortion carried out on them used such assistance on 178 occasions.

Thirty-nine of them were married and accounted for 83 abortions. Before their marriage, another 26 had terminated 44 pregnancies in this manner. Finally, among the unmarried, 41 had sought and found assistance for 51 abortions. The number of abortions for each group can be summarized in the following table:

Abortions	Unmarried women	Married, but abortions before marriage	Abortions after marriage	Total women	Total abortions
1	33	18	21	72	72
2	6	5	11	22	44
3	2	1	3	6	18
4			2	2	8
5		1	1	2	10
8		1		1	8
18			1	1	18
				106	178

Two women came in two categories, having had abortions both before and after marriage.

In addition to those abortions which may have been carried out, some women say that

there would have been more if they could have found an abortion expert: 31 women are in that category and the number of abortions thus "missed" is broken down as follows:

Abortions	Married women	Unmarried women	Total women	Total abortions
1	9	5	14	14
2	6		6	12
3	4		4	12
4	1		1	4
Not specified	5	1	6	
			31	

#### Who carries out abortions?

Although the operation is unlawful in our sample, at least, doctors are those who are responsible for the greatest number of abortions. Out of 174 abortions where the author is identified, 92 are accounted for by doctors. However, it seems that in certain cases, although the abortion expert claimed to be a doctor, it is not sure that he was a member of the medical profession.

The 66 women who found doctors to help them with abortions on 92 occasions report complications in 8 cases, while the 40 women who had the assistance of another person (nurse, friend or "professional") refer to complications on 20 occasions in their 81 abortions. Complications after abortions vary from peritonitis by perforation of the uterus, through haemorrhages, infections, embolisms, anaemia and sterility to atrocious pains. In many cases hospital care is required.

The following table gives a breakdown of the means resorted to for abortions:

Means	Doctors	Non-doctors	Total
Curettage .....	73	4	77
Intra-uterine douches	2	21	23
Serum injections ....	6	1	7
Knitting needles			
Metal rods .....	1	23	24
Probes, catheters ....		25	25
Caesarian operation ..	1		1
Bits .....	1		1
Unspecified .....	8	7	15
TOTAL .....	92	81	173

#### Cost of abortions

As was to be expected, the price charged for an abortion varies considerably. In general, it is much higher when the operation is performed by a doctor. The following table shows the spread in those costs.

Price charged	Doctors	Non-doctors	Total
Under \$50 .....	5	2	7
\$50 to \$99 .....	2	27	29
\$100 to \$199 .....	6	13	19
\$200 to \$299 .....	33	10	43
\$300 to \$399 .....	20	4	24
\$400 ot \$499 .....	9	5	14
\$500 or over .....	12	—	12
Not specified .....	5	20	25
TOTAL .....	92	81	173

The doctors whose rate is known charged an average \$302.00 per abortion, while non-doctors settled for an average \$155.00 per abortion."

Despite the limitations of this survey, it is interesting to note certain constants which also became evident in other research:

- 1. The majority of women having abortions are married;
- 2. The danger of abortion is greater if the operation is performed by a non-doctor;
- 3. The price charged by doctors is higher;
- 4. Abortion is resorted to at any age.

Chapter II: Who is responsible?

Within our society is a paradox: *on the one hand*, it is such that the needs for contraception become greater and greater, while *on the other hand* our society does not have the basic facilities nor the legislation necessary to permit contraception.

The needs for contraception:

What would happen to *married people* who live together through most of their fertile life if no contraception was applied? According to M. Sauvy, a French demographer, each family would have an average of ten children, with the numbers varying from none to as many as twenty or more. This average is clearly beyond the ambitions of most couples for various reasons.

First of all couples have private reasons for not wanting a child at a certain time. From the biological point of view, it is estimated that a mother needs a minimum of two years between each pregnancy for the body to recuperate fully. Otherwise, she might have to use her own reserves to form a normal child at the risk of finding herself weakened after each childbirth.

Some complications which occur very rarely during the first pregnancies become more and more threatening as the number of pregnancies increases. On the other hand, certain existing diseases are aggravated with each pregnancy; heart diseases and cancer fall into this category. They sometimes become so serious that a new pregnancy would endanger the mother's life. Moreover, some parents know that they will give birth to tainted children, because of hereditary diseases transmitted by them. They want to avoid such births.

From the psychological point of view, several reasons may also make prospective parents seriously consider the desirability of procreating.

The reason why people marry is not necessarily to have children nowadays. The Catholic Church has just confirmed this assertion, when it recognized that the prime purpose of marriage is the fulfilment and development of the spouses. Such fulfilment and development may require that at certain times pregnancies be postponed and indeed completely prevented. Besides, in many cases, it would have been better for the undesired child if his or her parents had used effective contraceptives. Indeed, the hidden refusal could mark a child for life, because the early years are most important in the development of his or her psychic balance.

If people were asked to teach grade school, many would refuse, on grounds that they did not have the vocation, the competence nor the ability required to do that adequately. And yet, child education is much more demanding on the parents. One does not become an educator without preparation and the task of education unfortunately does not end with the child's birth. Thus some people may consider themselves inadequate for such a role and their choice must be respected, just as one does not reproach one's neighbour for being a lawyer, when there is such a great need of good educators in our schools.

More important than those individual reasons to use contraception are those conditions of life that our changing society has rendered such that we live in a society resenting big families.

The word "stress", coined by Dr. Selye, does not describe a new process in man. However, the number of situations causing stresses is ever increasing in modern man; to resist such extraordinary requirements of the whole nervous and psychic system, human

beings must have a preparation which is not the same as in the past. In a more and more anonymous world, where the individual's importance to the others is decreasing, where his contacts with fellow-workers, neighbours or fellow-citizens are becoming more distant, the individual's need for affection increases constantly. The child is particularly demanding in this regard, needing the continued attention of his parents, who may then find it difficult to give the required care to several children about the same age.

The proportion of Canadians living in cities is increasing annually: it should be 72.4 per cent of the total population this year and 80 per cent in 1980, as compared to 61.6 per cent in 1951. Rural families moving into town cause additional difficulties for the education of children, especially from the housing problem point of view. The 1961 census provides us with the following figures, for Quebec rural areas.

Rooms	Number of persons						
	4	5	6	7	8	9	10 and more
2	1004	367					
3		4460	1976	571	210	131	
4			12683	5804	2683	1278	1051
5				15864	7675	3868	3490
6					6597	3726	4479
7						2878	3852
8							3152
9							1362

Source: Census of Canada, 1961 (93-534)

The following figures can be inferred from the preceding table: in 1961, 12,761 families occupied dwellings with two persons or more per room in Quebec's urban areas. Of this number, 1,051 families of ten or more persons lived in four-room units.

But housing is not everything: children must have ample space to play. The existing parks are too small in number and very often too far from the home, which makes them difficult of access. Therefore children must play in the street, on the sidewalks and be exposed to the many dangers of increasing traffic. Only a few seconds' distraction may cause a young child to be struck by a passing car. When there are several children, because of the diversity of activities according to their age and also because of the lack of supervision resulting from the number of children, the danger is all the more increased.

Even in the more economically-favoured quarters, finding family helpers (whether maids, servants or governesses) is a problem. It is very seldom that a mother, realizing her duty, in a desire to do her duty, is successful in finding the rare bird, whatever the price offered.

It is a fact that the medical science made tremendous progress in the past few years and that the general health of the population is constantly improving. Such progress is made possible through continued co-operation between doctors and the public; many measures for health and cure, in case of disease, are applied at home and require the parents' contribution. This concern for better health also calls for more attention to preparation of food; and the cost thereof is all the more increased.

Finally, our school system is progressing at an amazing rate. But there again, each child is more and more demanding: Parent-Teacher Associations, personal contacts with teachers, educational outings (visits to museums . . .), assistance to study, are normal preoccupations for parents who want to give their children the support they are entitled to from their guardians. However, when there are a few of them in the same family, it is very difficult for the parents to keep up to the task.

For *unmarried persons*, the problem is different, but it is there: a wave of sexual emancipation is breaking onto society: all taboos are falling, and we are going from one extreme, when sex was a subject not to be talked about, to another extreme, where it is always talked about. Sex has become a consumer object, and publicity took it over to promote

sales. As a consequence, sexual stimulations are extremely abundant in this society. However, society is not prepared to accept the consequences which could result from the expression of that sexuality. Unwed mothers must keep fighting to have society accept the result of their actions. An unwed woman who becomes pregnant is practically obliged to give up her child.

#### *Society and contraception:*

In the past few years, our society has launched a trend towards contraception. There again the traditional attitude has not changed everywhere.

The Canadian law is very strict in regard to contraception. It has been violated for many years now, but it still prevents public services, those which would be most able to meet society's greatest needs, to act officially in this field. The consequence of this is that the answer to the problem is left in private hands: for all practical purposes, responsibility for contraception therefore lies in the hands of private doctors.

Doctors do not have any training in family planning. They have only a partial view of existing techniques, a one-sided view in many cases. They tend to have many prejudices in this field and sometimes they have very strong ideas against any intervention on fertility. That is all the more so when the consulting woman is not married.

The traditional position of the Catholic Church on this matter is known. Many changes are now taking place, but all couples have not yet benefited from interpretations by modern theologians and think they are obliged to resort to unefficient techniques.<sup>1</sup>

The realization of our society's weaknesses came to the Quebec Higher Council on Families last year, in its brief submitted to the provincial government on October 21, 1966. We take the liberty of quoting the main recommendations of the Council's brief:

#### *Second recommendation:*

We recommend that the Department of Education ask schools of medicine:

- (a) to give sufficient training to their students in matters pertaining to birth control;
- (b) to give practising doctors courses on these matters.

#### *Third recommendation:*

We recommend that the Department of Health ascertain the knowledge of practising doctors in matters pertaining to birth control and that it take any action deemed desirable.

#### *Fourth recommendation:*

We recommend that the authorities responsible for the advisory services suggested in the fifth and sixth recommendations concern themselves not only with the technical aspects of birth control, but also with its possible impact on relationships between spouses and on family life; that they make sure that competent advisers (social workers, psychologists, etc.) provide good guidance to couples on such aspects of their lives; furthermore, that the same authorities make sure that the moral convictions of couples, whatever they may be, will be respected, and that no undue pressure will be exerted to promote such or such method.

#### *Fifth recommendation:*

We recommend that the Department of Health encourage hospitals to develop advisory services on birth control and that it give them the facilities required to operate such services.

#### *Sixth recommendation:*

We recommend that the Department of Families and Social Welfare encourage social service agencies to create advisory services on birth control and that it give them the facilities required to operate such services.

#### *Seventh recommendation:*

We recommend that, in general, the Department of Health supervise the quality of advice provided by public and private organizations in matters pertaining to birth control.

The Department of Health of the City of Montreal has organized special clinics of maternal hygiene in underprivileged districts. Their principal aims are:

1. To enable needy mothers to get a complete medical check-up and a cancer check.
2. To give them good preventive medical care.

We take this occasion to give them some information on birth control as well.

<sup>1</sup> The results of a survey as reported in Maclean Magazine of June 1966 indicated that 46 per cent of women using contraception in Quebec were doing so through the Ogino-Knauss method.

Our society somewhat realizes its ambiguous position: it urges people not to have too many children, but does not authorize the means to achieve this purpose. Therefore, when women resort to abortion, society is not very stern; it suggests that abortions are useful in many cases and, as a consequence, it does not try too hard to discover cases of abortion and impose severe penalties.

### *Chapter III: Unwanted pregnancies*

"Conception is followed by a great turmoil in the female organism in general. Each woman enters pregnancy with emotional factors and situations of conflict which become related with her general condition and with the organic characteristics of pregnancy".<sup>2</sup> One very often finds in a pregnant woman a certain ambivalence regarding the child she is bearing. During the pregnancy, the mother can easily alternate from a sentiment of desire to a sentiment of non desire for the child, and this for various reasons of a personal, medical, family or even social character. Any pregnancy situation may compel the pregnant woman to really identify herself toward her child. Her degree of emotional maturity and that of her companion will be directly connected to the final attitude she will have towards her child.

When one mentions the expression "unwanted pregnancy", one must distinguish between 1) the absence of a *positive* desire for a child for its own sake, considered as an individual having personal rights and 2) a *negative* attitude towards the child or its rejection.<sup>3</sup> In this case, the child is considered a burden, a cause of anguish.

Four possibilities must be considered in the case of an unwanted pregnancy. The mother can finally accept her pregnancy, resign herself to it, abort spontaneously or abort voluntarily. Let us consider severally each of these possibilities.

The mother may accept all the consequences of her act and assume the social responsibility for her child. That attitude will facilitate the child's integration in its new environment. If the mother is married, her positive attitude will also have a direct influence on the whole family integration.

But the mother may only preside very passively over the whole pregnancy process.

Without desiring the child, she resigns herself to it as to an unavoidable destiny which leaves her powerless. If the mother and the family do not correct such a poor attitude towards the child, there is the risk that the whole family equilibrium will be upset and that the child will be himself affected by it.

As a third possibility, there is the spontaneous abortion. Physically speaking, it would seem that the hormonal function is defective in such a case.

It is difficult to delineate the exact influence of the physical and the psychic. Hélène Deutsch says that spontaneous abortion is "often the expression of a psychic process as completely independant of one's conscious will as the organic process itself". Many causes can be found at the level of the individual; they may also explain very often the process of repetitive spontaneous abortion.

A fourth possibility is that to face up to an unwanted pregnancy a woman rejects the situation unequivocally. The woman may then want to eliminate the forthcoming fruit of that pregnancy and it is then the provoked abortion that will lead her to that desired end, or else she may will to eliminate herself in a suicidal act.

In the Medical Post of October 10, 1967, we find the following remarks of a lecturer to the American Psychiatric Association:

"What about the pregnant woman who threatens suicide? Dr. Aarons said the threat from the patient cannot be accepted as the basis for such a prediction. Much more must be known and ascertained than the patient's word for it.

More often than not, the patient who really contemplates suicide does not verbalize her intentions, especially if she is in a state of depression.

What must be determined is whether the threat is a histrionic manifestation or a psychotic symptom. If it is psychotic, however the pregnancy terminates, the suicidal intention may be carried out—if the pregnancy has sufficiently aroused self-destructive impulses."

This testimony is borne out by the statistics on suicides in New York City;<sup>4</sup> women of reproductive age have a total rate of 5.5/100,000 suicides, whereas the rate for pregnant women is only 0.5/100,000.

<sup>4</sup> Abortion in the United States, by Mary Calderone (1958) Paul B. Hocker, Publisher.

<sup>2</sup> Hélène Deutsch, *La Psychologie des femmes*, Vol. II, France's University Press Paris 1955.

<sup>3</sup> K. Goddy, "The Unwanted Child", *Sex and Human Relations*, I.P.P.F. 1964.

With regard to the provoked abortion; it is illegal in our society; nonetheless some women do have recourse to it. We shall see in the following chapter the repercussions of that act done illegally.

We can hardly determine the quantity of the classes we have just established; we do not know how many women reject their pregnancies and then choose such a possibility as a solution. But we wish to quote a survey made in Sweden some years ago, which illustrates, in the case of a very different population, it must be said, the possible solutions to an unwanted pregnancy.

Mr. K. Hook<sup>5</sup> studies the cases of 249 Swedish women to whom legal abortions were denied some 7½ to 11 years previously. From that number, 50 per cent were married when they sought the abortion; 39 per cent were pregnant for the first time and 35 per cent were pregnant for the third time at least. What became of their pregnancies? In 86 per cent of the cases, pregnancy continued normally; 3 per cent had a spontaneous abortion; 11 per cent had illegal abortions. There were no suicides, no attempts at suicide during the years that followed the denial of the request, even though 7 per cent of those women (2 per cent) previously attempted suicide. Such attempts at suicide were not connected with a previous pregnancy. For women whose pregnancy continued its course normally, 25 per cent accepted their condition in a satisfactory way, 50 per cent had severe emotional problems prior to their getting adapted, problems that lasted at least a year. With the other patients (25 per cent) important psychological symptoms were again noted at the time of the survey. It should be noted that those women to whom legal abortions had been denied showed at the time of their application a much lower incidence of personality troubles and of psychoneuroses than women of a comparable group to whom a legal abortion was awarded.

Thereafter, 144 women became pregnant again (40 per cent). In the case of 85 such women (59 per cent), that new pregnancy was not expected and came about despite reliable information on anticonceptual methods. For those second pregnancies, about 50 per cent obtained an abortion (40 per cent legal, 10 per cent illegal).

#### *Chapter IV: The Consequences of an Illegal Abortion:*

Abortion in itself, if performed in proper conditions by a person qualified to do such an operation, is not very dangerous. We shall examine later the possible consequences of that operation in a hospital. But due to the fact that the procedure is illegal, as it is usually the case, numerous consequences appear from that special "status". In the first place, illegal abortions present serious disadvantages to the women; secondly, the community as a whole suffers from that situation.

#### *Consequences for the individual:*

We do not have here to pass judgment on the reasons why women want an abortion. One fact is certain: a woman who totally refuses her pregnancy will stop at nothing to put an end to it. For her, the fact that abortion is illegal means, in the majority of cases, a greater danger for her health, a higher cost and finally a greater traumatic effect.

The incidence of death per abortion is often exaggerated. If the number of abortions is as high as one can suspect, the mortality rate following such operations is really not very high. On the other hand, there are other consequences in health hazards which are perhaps less dangerous, but should not be underestimated: sterility following abortive manoeuvres done in a septic way, chronic genital infections, serious hemorrhage followed by anaemia, mutilation of genital organs—The extent of such problems is not well known, but they definitely exist. Just last week at the Maisonneuve Hospital there was the necessity of removing the uterus of a young woman who had attempted abortion with dry mustard.

Such complications would not come up if abortions were performed in sterile conditions by qualified medical doctors. But competent doctors do not want to risk prosecution or a jail term; only a few members of that profession take the risk, more often because of the possibility of big money than for humanitarian reasons. And even then, they cannot operate in ideal conditions, being refused hospital facilities for such interventions. So, acting in improvised places, the rules of hygiene are not followed and if there is hemorrhage, there is no blood transfusions possible. In the majority of cases such doctors do not give their telephone numbers and if later complications set in, the woman cannot get in touch with them.

<sup>5</sup> K. Hook—Refused Abortion Acta Psychiat. Scandinavica 39:168, 1963.

Most illegal abortions are not performed by doctors. Nurses, quacks, "good" women with experience and others often go into that lucrative "profession". For those amateurs, the means taken are as varied as they are dangerous. To become an abortionist, no diploma is necessary, no examination is required and no standards must be followed; only daring is necessary. And she who seeks their assistance has no recourse should a complication set in. The dangers of repercussions on one's health are even greater than the ones we have described for the medical doctors earlier.

The cost actually asked for an abortion takes into account the illegal aspect of that procedure. Whereas a curettage carries a fee of \$75.00, abortion which in fact is a curettage is actually done by a doctor for about \$400.00 in the average. Such a rate, paid in cash, keeps many women away and compels them to seek a cheaper abortionist, but also one who presents greater risks. In the investigation quoted in the first chapter, the average requested by such people would be around \$155.00, which is still too high, for some then decide to proceed by themselves or with the assistance of an obliging woman neighbour, with the help of the famous knitting needles or other barbarous methods.

As a last consequence of the illegal character of abortion is the traumatic or shock effect on the woman who undergoes such an operation. It is generally done without any anaesthesia and, according to many, the pain suffered, even so brief it may be, is never forgotten.

The abortionists are suspicious people. In order to keep operating for a long time they must hide. The operation is held in a motel or a hotel room, anonymously, with secrecy as a condition; noise must be deafened and all circumstances of the case points to an operation done in a charged atmosphere, the traces of which are indelible. Many aborted women have told us that they had felt like living a police novel and none too agreeable one! Those circumstances which fear of law impose may be rendered even more shocking in certain cases. In fact, certain male abortionists take advantage of the desperate situation in which the women who seek their services find themselves, demand that before the operation the woman have sexual intercourse with them. Some of them pretend that such a procedure facilitates the operation thereafter.

Finally, all those traumatic causes are uselessly suffered by certain women who, because of lateness in their menstrual cycle, run to the abortionist who proceeds immediately to an operation they know is useless because the woman is not pregnant, and that in order to earn easily a large sum of money.

#### *Consequences for society:*

Even Society as such suffers a little with the laws it has given itself.

Numberous are the abortions that must terminate with a more or less prolonged stay in hospital. The beds thus occupied cannot be used to other ends. And the mortality rate resulting from abortion done in such conditions is a heavy burden for society to bear.

We do not know who resorts to abortion. If society considers the problem is important, if it wants to set in motion steps leading to solutions, it cannot know where to start or what steps to take, because few are those who brag of having recourse to an illegal intervention. There is thus no means to guide action towards the sectors that most need assistance.

Finally, by its attitude, society tolerates the maintenance of a certain discrimination, since abortion done in good conditions and by competent people is accessible only to wealthy people who can journey to another country with different legislation, either to pay the services of a local doctor whose fees are prohibitive. On the other hand, society must show some leniency in the enforcement of its law, otherwise it risks estranging from such practice the persons most qualified, the doctors who could earn a living otherwise that which would only increase the number of unqualified abortionists and also the rates they would demand for an operation.

#### *Chapter V: What to Expect of the Future:*

Our society is in a constant state of evolution. For some years now, changes have been occurring at a steadily increasing rate which shows no sign of slackening—in fact, quite the contrary.

When we confront a problem, we must attempt to find solutions which will take into account the eventual evolution of that problem. We feel it useful, therefore, to briefly outline expected tendencies in matters directly concerning fertility. We do not intend to compose a work of science-fiction but simply to project into the future certain already apparent tendencies.

There are, in fact, a number of factors influencing the evolution of the problem of fertility control: all these factors do not have the same effect and a situation at a given moment will be the result of the various forces at work at the time.

In the first place, we may expect that social necessities which force couples to desire less children will continue to increase. Migration to the cities does not appear to be slackening, large accommodations are becoming increasingly rare, consumer needs are growing, student marriages are on the upswing. As yet no government has adopted a truly family policy and even if it wanted one today, it would be a number of years before it could be established. Moreover, the problem of overpopulation in the world is coming more into focus each day and newspaper headlines such as, "Six billion insects?", "One square foot per person" are already causing couples—and will do so more in the future—to question the point of bringing children into the world.

In the second place, we may expect that medical progress will continue. The *diagnosis* of congenital deformity, either through a better understanding of genetic mechanisms, or through examinations during pregnancy, will become increasingly more accurate and possible in a greater number of cases. As to *treatment*, fewer and fewer children will die in infancy, despite diseases from which they will suffer; when they reach the reproductive age, their body cells will thus contain chromosomes which are genetically tainted. Certain diseases which have become very rare because they have not been perpetuated, will therefore become considerably more common. Accordingly, the first children who were able to be saved from death from phenylketonuria are now reaching marriageable age. From the present figure of 1/40,000, incidence of the disease is in danger of rising sharply.

In addition, with all the research being undertaken in this direction, we may expect the discovery in the near future of new and very effective contraceptive techniques which require little motivation. Likewise, through wider public instruction, more people will be influenced by publicity for contraception and will be able to make better use of the techniques accessible at the moment. From the medical standpoint, improved care will help decrease the number of cases where the health of the mother might be endangered by a pregnancy, and no doubt treatment will even be discovered to enable genetically

handicapped parents to give birth to normal children. In this way, foetal erythroblastosis which prevented certain parents from having healthy children has just been conquered, owing to a vaccine which is now available.

If we attempt to draw up a report of these changes, we may expect over the short term an increase in the incidence of unwanted pregnancies and, consequently, a greater desire for abortions, and, over the long term, a decrease in this rate, hence less desire for abortions. How many years separate the short from the long term we cannot say: however, there can be no doubt that the length of this period may be shortened by concerted action in the distribution of contraceptives already available.

#### *Chapter VI—How Other Countries Cope with the Problem*

In this chapter we shall examine existing legislation and the consequences of this legislation in a country where therapeutic abortion alone is permitted: the United States and in countries where legislation authorized abortion based on medical, eugenic, social, psychological factors (over several years).

- a) United States
- b) Scandinavian countries
- c) Socialist countries and Japan.

#### *a) United States*

In each of the states, in one form or another, there is a law forbidding the interruption of pregnancy; an exception is made to this prohibitive law, an exception which permits therapeutic abortion, in order to preserve or *save the life of the mother*, in 42 states, in order to *preserve the life or the health of the mother*, in Alabama, Oregon and the District of Columbia, in order to save the life of the mother or prevent serious or permanent bodily harm to the mother, in Colorado and New Mexico. The law differs in Maryland, Massachusetts, Pennsylvania and New Jersey.

We do not know the exact number of therapeutic abortions in the United States, still less the number of illegal abortions. Dr. Robert E. Hall published the results of a survey he conducted in 160 American hospitals: in 1965, 507 therapeutic abortions had been performed in these hospitals. During the same period, there had been 186,678 deliveries in the same hospitals, or 1 therapeutic abortion for every 368 live births. The best statistics come from New York City as therapeutic abortions must be declared by the Department of Health. These

statistics have been published by Dr. E. M. Gold and his co-workers. We note first that the rate is dropping steadily:

1943-1947: 1 therapeutic abortion per 196 live births

1951-1953: 1 therapeutic abortion per 344 live births

1960-1962: 1 therapeutic abortion per 555 live births.

This shows a decline of 65% in 20 years. We find this same decline in other studies published. The decline is attributed to two factors: (1) medical factors justifying therapeutic abortion for an organic disease are increasingly rare, as pregnant patients suffering from cardiac diseases, hypertension, kidney ailments, etc., may now be treated more satisfactorily and pass through their pregnancy without too great risk; (2) the establishment in the majority of hospitals of an Abortions Committee has greatly reduced the number of therapeutic abortions. This type of Committee, composed of doctors specializing in internal medicine, obstetrics, psychiatry, always excluding the doctor who requests and who will perform the therapeutic abortion, had been proposed by A. Guttmacher as early as 1952. After the setting up of such a committee in Sloane Hospital for Women, a hospital of the Columbia Presbyterian Medical Center, New York, the incidence of therapeutic abortions has dropped by 33%.

Although in almost all states the law permits a therapeutic abortion, the majority of hospitals do not allow one doctor alone to decide on the value of a therapeutic abortion. Hospital regulations require either consultation with one or several doctors, or formal approval by the Head of the Obstetrics Department or by the Director of the hospital, whether or not he is a doctor.

However, it appears that the formula of an Abortions Committee is now the most popular.

Whatever the reasons for obtaining a therapeutic abortion, private patients always obtain more therapeutic abortions than poorer patients, called "public". A study of cases of therapeutic abortions in 1963, in 60 hospitals, revealed that 3.6 therapeutic abortions were performed in private practice for every one therapeutic abortion performed in the ward. These figures are supplied by Dr. R. E. Hall. He explains this difference in the following way: (a) public patients register too late in the course of their pregnancy in clinics. After

the fourth month of pregnancy it becomes more difficult technically to perform an abortion and the medical risks are greater. (b) public patients are less well informed of their right to therapeutic abortion. (c) The incidence of therapeutic abortions based on psychiatric factors is greater for private patients than for public patients. In the Sloane Hospital for Women, in New York, 1 therapeutic abortion is performed for every 1,149 live births for psychiatric reasons among public patients, whereas one abortion per 104 live births is performed among private patients.

The number of therapeutic abortions also varies considerably from one hospital to another. Robert E. Hall disclosed in one hospital 1 abortion for every 20 deliveries, and in another hospital, no abortion for 24,417 deliveries. These differences are due to two factors: (1) the proportion of public patients in relation to private patients. Thus in New York City, from 1960 to 1962, the ratio of abortions for the number of births was 1:256 in private hospitals which admit no public patients; in public and municipal hospitals which admit only public patients, it was 1:10,000. In semi-public hospitals, it was 1:1429 for Ward Service, and 1:416 for Private Service. (2) The number varies also according to the interpretation of the law made in respect to psychiatric reasons. In certain cases social factors are also taken into account and included in the psychiatric decision whereas in other hospitals no psychiatric reason is accepted.

Dr. A. Guttmacher has already described the abortions law as the law which doctors often transgress, the law of hypocrisy. In Mount Sinai Hospital in New York, from 1953 to 1958, 147 therapeutic abortions were performed because the woman threatened suicide. Although abortion is permitted only to preserve the life of the mother, the law is interpreted in such a way as to include possible suicides, and very often any danger to the mental health of the pregnant woman, considering in particular mental breakdown.

American doctors not only accept a rather liberal interpretation of the law but transgress it unequivocally by performing therapeutic abortions for foetal reasons. The most recent and widespread example is that of abortions performed in the case of German measles affecting the mother. In New York City, between 1959 and 1963 4 to 7 per cent of abortions were performed due to German measles; in 1964, during an epidemic, the rate was 57 per cent.

It is generally estimated that there are approximately 100 illegal abortions for every therapeutic abortion, that illegal abortions present grave medical risks to the health or life of the mother. These impressions cannot be documented, but they disturb a considerable number of doctors, all the more so as maternal mortality in cases of septic abortions is not decreasing in the same proportion as other causes of maternal mortality, this despite more powerful antibiotics.

The disparity which exists from one hospital to another between the number of therapeutic abortions performed, the very different access public and private patients have to therapeutic abortions, the increasingly wider integration of social and economic factors in psychiatric reasons, the acceptance of foetal indications to perform an abortion, and the social problem of illegal abortions with all the risks they involve, exercise strong social pressures on the various legislatures to change the abortion law in the United States. Applications are made out according to the model of a penal code supplied by the American Law Institute: "A registered medical practitioner is justified in interrupting a pregnancy if he believes that the continuation of this pregnancy involves a considerable risk of grave physical or mental damage to the health of the mother or if the doctor feels that the child will be born with a serious physical or mental defect, or if the pregnancy results from rape or incest." This application for abortion must be approved by another doctor and the abortion must be performed in a registered hospital. During 1967 bills requesting changes were tabled for first reading or study in the Legislatures of the following states: New York, California, Arizona, Minnesota, Nebraska, New Mexico; committees were established in Colorado, Illinois, Missouri, North Dakota, Ohio, Oklahoma and Wisconsin.

#### REFERENCES:

Calderone, M.S. *Abortion in the United States* Hoeber. New York, 1958.

Gold, E.M., Erhardt, C.L., and Jacobziner, H., *Therapeutic Abortion in New York City: A 20 years Review*. Amer. J. Public Health, 55:964, 1965.

Guttmacher, A.F. Redbook Magazine, August 1959.

Hall, R.E., *Therapeutic Abortion, Sterilization and Contraception*. Am. J. Obst. and Gynec., 91:518, 1965.

Hall, R.E., *Therapeutic Abortion and Sterilization* Chapt 18, in advances in Gynecology and Obstetrics, Marcus and Marcus, 1966.

Niswander, K.R., et al. J. AM. A. 196:1140, 1966 *Symposium on Therapeutic Abortion and Sterilization* in Clinical Obstetrics and Gynecology, March 1964.

#### b) The Scandinavian Countries

The legislation on abortion in Sweden dates from 1938 and has been revised on three occasions, in 1941, 1942, and 1946. A pregnancy may be interrupted under the following conditions: (1) illness or tendency to illness (deficiency), either physical or mental; (2) the existence of certain medico-social factors, which have only been accepted since 1946; (3) if a tendency to illness (in the sense of partial incapacity or deficiency) is anticipated as a result of the fact that the pregnancy and the care of another child will probably have serious physical or mental consequences; (4) if the pregnancy is the result of circumstances in which the woman was clearly deprived of her liberty of action, such circumstances being rape, pregnancy in mental defectives and in young girls; (5) genetic indication of a hereditary risk. If the woman herself is responsible for the genetic condition, she must be sterilized at the same time.

The woman herself must make the request for a legal abortion. A special committee on abortions set up by the Royal Council on Medicine and composed of one doctor, usually an obstetrician, an ordinary citizen, preferably a woman, and the head of the Social Psychiatry Bureau, is responsible for determining the validity of the eugenic factors, making the decision on behalf of mentally retarded women and naming doctors who themselves decide on the abortion. These doctors, acting in an official capacity, can decide on an abortion, if their decision is supported by another doctor, generally the one who will perform the abortion, and if the patient is legally responsible.

These two doctors may decide only on the medical, medical and social, or purely humanitarian aspects. They are required to refer all cases of eugenics to the Special Committee of the Royal Council on Medicine. The woman requesting the abortion never appears in person; decisions are made on the basis of the file.

In 1941, the abortion rate in Sweden was 0.5 per cent; it was rising to 3.5 per cent. Between 1957 and 1960, approximately 3,000 therapeutic abortions were carried out each

year, a rate of 27 to 32 abortions per 1,000 live births. Mr. M. Ekblad has published a study which shows quite clearly some of the social aspects of abortion in Sweden. The report concerned 479 Swedish women from Stockholm who had therapeutic abortions for psychiatric reasons during the years 1949 and 1950. At the time of abortion, 66 per cent were married; all those who were pregnant by their husbands had children already, usually 2 or 3. 5 per cent had already obtained a legal abortion previously, and 4% had already had a criminal abortion. The indications were as follows: 63 per cent, medico-social reasons; 36 per cent, neurasthenia or neurotic anxiety. None of these women were suffering from endogenous psychoses. Following the abortion, 40 per cent of the married women became pregnant again within two years.

The pregnancy was unplanned in most cases, and the author noted that in general these women were unable to learn to use any effective contraceptive method despite the most detailed instructions at the time of the abortion. Mr. M. Ekblad saw these patients again three years later: 75 per cent were glad that they had had the abortion, 14 per cent experienced some slight regret. Only 11 per cent seriously regretted this abortion; some had experienced a slight depression; fewer than 1 per cent showed any partial incapacity as a result of this abortion.

Between 1963 and 1965, some 700 foreign women requested abortions in Swedish hospitals. 97 per cent of these requests were not accepted, either because the patient's file was incomplete, or because she was unable to prolong her stay. Most of these women gave purely social reasons, such as the fact that they were unmarried, financial difficulties, etc., forgetting that Swedish abortion legislation includes many preventive measures and is directed towards the search for better alternatives than abortion as solutions for problems of social assistance.

#### REFERENCES

- Borell, U., & Engstrom, L., *Legal Abortions in Sweden*. World Med. J., 13: 72, 1966.
- Ekblad, M., *Induced abortion on psychiatric grounds*. Acta psychiat. et neurol. scandinav., 99, supplementum, 1955.
- Calderone, M. S., *Abortion in the United States*, Hoeber, New York, 1958.
- Tietze, C., *Legal Abortion in Scandinavia*. Quart. Rev. Surg., Obst. & Gynec. 16: 227 1959.

In Denmark, the legislation reveals very personal, individualized attention to the problems of the pregnant woman. The law dates from 1956 and states "that a woman may obtain an interruption of her pregnancy when such interruption is necessary to avoid a serious threat to her life or health. In the assessment of this danger, account must be taken of the conditions in which this woman must live and not only of mental or physical illnesses, but also of mental or physical weaknesses". The act also states "that a woman may obtain an interruption of her pregnancy when there is a considerable danger that, because of hereditary factors or injury or illness during foetal life, the child will suffer from mental illness, imbecility, serious mental disturbances, epilepsy, serious incurable defects or physical illness". Finally, the act states "that a woman may obtain an interruption of her pregnancy in special cases in which physical or mental disturbances or other clear medically established circumstances make this woman incapable of caring for her child". Requests for abortion on grounds of illness are accepted immediately by the Departmental Heads of public hospitals. If the case does not involve an existing illness, the request is studied by a committee of three members appointed by the Department of Social Affairs. Two of the members are doctors, one of the two must always be a specialist in psychiatry, and the third position on the committee is automatically held by the director of a semi-public body known as "Mothers' Assistance". This organization, whose members are mainly doctors and social workers, has been in existence for many years assisting pregnant women in every way. The law requires that all women who wish an interruption of pregnancy for reasons other than illness be referred to the "Mothers' Assistance" organization which will study and submit the case, and its social as well as medical aspects, to the three-member committee responsible for accepting requests for abortion. Thus, Denmark has 14 regional committees; and the committee is required to meet the woman making the request so that decisions will be based as little as possible on paperwork.

In 1940, the therapeutic abortion rate in Denmark was 0.7 per cent; in 1956, it was 6 per cent and from 1957 to 1960, it was between 49 and 54 therapeutic abortions per 1,000 live births.

Of course, there is a very particular cultural, social and psychological context which explains this fairly high therapeutic abortion rate among the Scandinavian people. They recognize the existence of socio-economic and interpersonal pressures on the parents and they take these pressures explicitly into account when deciding upon abortion. They also accept certain factors which are extremely important in the mental and emotional equilibrium of the pregnant woman, such as the existing interpersonal relations between husband and wife, and the effects of the arrival of another child on an already unstable family. However, unmarried mothers, on the other hand, seldom request therapeutic abortions, because the social group readily accepts illegitimate births and because these women enjoy free medical care and social and psychiatric assistance.

Scandinavian legislation guarantee a very positive response to the problems of the pregnant woman, a response which consists most often of social and medical aid, and occasionally involves interruption of the pregnancy.

c) The socialist countries and Japan

We shall examine, in the first section, the existing legislation as regards abortion in the socialist countries and Japan; in the second section, the demographic characteristics of women obtaining abortions; and, in the third section, the consequences of the social legislation.

I—Legislation

Example:

Czechoslovakia<sup>6</sup> has allowed abortion for social reasons since 1957:

- 1) age of the mother
- 2) loss or disability of the husband
- 3) dissolution of the family
- 4) threatened standard of living where the wife is the principal source of income
- 5) difficult situation in the pregnancy of an unwed mother
- 6) rape or criminal intercourse with minors

<sup>6</sup>L. Lukas, *Abortion in Czechoslovakia*, in "Sex and Human Relations", op. cit. p. 96.

Yugoslavia

Until the second World War, abortion was not permitted except for medical reasons. After the war, the attitude towards abortion changed:

1951: medical factors and some other cases. Under this legislation, women who obtained abortions were not punished, but the abortionists were. As a result, when there were complications, women came immediately and freely to the hospital for medical treatment.

1960: not only eugenic and legal reasons, but social reasons as well

—when it appears probable that, because of the pregnancy, the woman will be in poor personal, family and economic conditions which could be avoided<sup>7</sup>.

Russia

The legislation on abortion has been amended on several occasions to conform to the needs of the country (birth rate policy)

1917-20: abortion illegal even on medical grounds

1920-36: legal (any reason)

1936-55: legal only on some medical grounds

1955: legal (any reason)

Japan<sup>8</sup>

—a population policy  
(the country is overpopulated)

—and a health measure  
(to protect mothers against the ill effects associated with illegal abortions)

1949 : Abortion authorized for financial reasons.

<sup>7</sup> M. Hren, J. Herak-Szabo and A. Mojie: *Abortion in Yugoslavia within the framework of the themes of the conference*, op. cit. p. 90.

<sup>8</sup> We have included Japan in c) with the socialist countries in order to allow easier comparison of the various rates given. It should be noted however that Japan is a special case, since the legislation on abortion was introduced primarily to resolve a problem of overpopulation.

## Distribution of reasons given for abortion (Statistics)

Table 1	Czechoslovakia	1965	1962
Social		80.5%	91.8%
Care of three or more living children	35.5		45.3
Difficult position for unmarried mothers .....	13.0		12.5
Lack of accommodation .....	9.4		7.0
Dissolution of the family .....	5.1		3.8
Financial .....	5.6		2.5
Over 43 years of age (woman) .....	2.7		
Other .....	9.4		
Medical		19.5	8.2

Ref. Czechoslovakian life, January 1966

Vojta Novy vyznam potratu a preruseni tehotenstvi pro populacni vyvoj, 1962

Table 2	Yugoslavia—"Slovenia" (1965)		
Social		%	94 %
Housing .....	23		
Economic and social .....	30		
Family Relations .....	16		
Illness in the family .....	6		
Marital Relations .....	3		
Alcoholism .....	4		
Personal .....	9		
Other .....	2		
Medical		6	%

Ref: Official statistics quoted in Novak's department

Table 3	Hungary	Oct. 60	Jan. 64	Ref: Andras Klinger: Abortion Programs in "Family Planning and Population Programs", ch.39, p.467.
Other than medical				
Do not want any more children .....	30.5 %	32.7 %		Russia: A similar survey in Russia in 1958-59 among 26,000 women found that approximately one third of the women stated simply that they did not wish to continue their pregnancy. Approximately 10 per cent indicated factors such as uncertain marital circumstances, the difficulty of bearing a child, the problems of the newborn.
Poor housing .....	15.2	16.1		Ref. Idem p.467
Marital status or unfavourable family .....	9.7	14.5		
Low income .....	13.4	9.2		
Youngest child is too small .....	9.7	8.0		
Fear of confinement or illness .....	10.3	8.1		
Age .....	4.1	3.9		Table 4 Japan
Saving purposes .....	1.8	3.0		Survey carried out by the Institute the Public Health in 1949-50 <sup>9</sup>
Difficulty caused by a child in employment ..	3.8	3.2		Health .....
Others and unknown ...	1.5	1.3		17 %
				Want longer spacing between children .....
				17 %
				Economic .....
				50 %
				Do not want any more children .....
				13 %
Total .....	100.0 %	100.0 %		
Total number of women	12,333	13,892		

<sup>9</sup> Japan's Experience in Family Planning—Past and Present, Family Planning Federation of Japan Inc. March 1967 ch. 4 Induced Abortion.

In 1955, social, psychological and economic reasons were estimated at 50 per cent of the requests.

*Procedures to be followed in order to obtain an abortion*

1. *Commission*

In Czechoslovakia<sup>10</sup> the law allows the woman to submit her own request to a commission which will decide whether she may obtain an abortion.

- Medical questions: commission of medical specialists decides
- other questions: joint commission including women of broad experience enjoying public confidence.

The discussions of the commission remain secret.

In Hungary<sup>11</sup> permission for abortion is given by a committee formed by the hospital. (From another source, we learn that this commission is formed of three members: a doctor, a delegate from the local socio-political group and a delegate from a women's association.<sup>12</sup> However, the committee is required to accede to the woman's request; the role of the committee is limited to *reducing* the effects of the interruption. For married women with one child or none, the committee leaves a period of three days after the first interview in order to allow the woman time to reconsider her request and to discuss it with her husband. (From another source, we learn that these women with one child or none are brought together separately to draw their attention to: abortion—danger to mother's health—need for use of contraceptives.<sup>13</sup>

If the woman returns after the three days and repeats her request, permission is granted.

"The aim of this decree was to prevent the dangers to the woman's health caused by illegal abortions, which are often carried out under non-hygienic conditions. Moreover, it did not appear desirable to base a population policy on unwanted children.<sup>14</sup>

<sup>10</sup> L. Lukas, *Abortion in Czechoslovakia*, in "Sex and Human Relations", Excerpta Medica Foundation, Theme II: Abortion p. 96.

<sup>11</sup> E. Szabady, K. Miltényi: *Abortion in Hungary. Demographic and Health Aspects*, in "Sex and Human Relations" op. cit. p. 84.

<sup>12</sup> Andras Klinger, *Abortion Programs*, op. cit.

<sup>13</sup> Andras Klinger, *Abortion Programs*, op. cit.

<sup>14</sup> E. Szakady, & K. Miltényi, op cit. p. 84.

In *Yugoslavia*, a special commission grants abortions. It is made up of:

- two doctors (including one gynecologist)
- one social worker

The Commission decides for or against abortion on the basis of previously received information. (The commission usually allows abortion in 90 per cent of the cases).

In *Japan*, before 1952, a local committee decided for or against abortion. This commission was dissolved in 1952. The request for abortions is now made directly to the doctor.

2. *Other conditions*

Abortions must be performed in hospitals; (in Poland and Japan, abortions may also be carried out in private offices); they are also allowed within the first 12 weeks of pregnancy, later only in very severe medical cases, (Yugoslavia, Czechoslovakia) or in special cases, as in unwed minors (Hungary). In Czechoslovakia, parental permission is required in the case of minors. In Hungary, the parents must pay for the abortion of a minor. Normally, the interval required between two abortions is *six months*.

*Russia* (1950-59): 16 per cent of the women have had more than one abortion a year.

Japan	1954 %	1960 %
Before 3rd month . . .	46.2	54.3
During 3rd month . . .	45	40
From 1st to 3rd month	80.8	94.2

The price asked for an abortion is not the same everywhere. It appears that the cost of the abortion is used to limit their numbers to a certain extent.

Czechoslovakia: 1960: abolition of charge  
1962: charge only for first pregnancy.

Hungary: Charge for minors  
social insurance covers only medical abortions.  
other abortions are performed for \$16.00 (which is still quite low in comparison with the sum charged in this country, when the abortion is illegal: \$155-\$302.<sup>15</sup>

<sup>15</sup> Cf. *supra*, survey conducted by Dr. Serge Mon-geau Photo-Journal 1966.

## II—DEMOGRAPHIC CHARACTERISTICS OF WOMEN PROCURING ABORTIONS

a) *Civil Status*

	Single	Married	Divorced Separated Widows	Housewives	Employed
Czechoslovakia.....	1958 ↓ 1962 Δ ↓	86%  82%			50.6  65.5
Yugoslavia "Slovenia" (1964).....	16%	78%	6%		
Romania (1965).....		94%		40-60%	
Japan.....	10%	49% Young— 1st pregnancy			

In general, married women resort most frequently to abortion.

b) *Age*

	19-	20-24	25-29	30-34	35-39	40-44	45-50
Czechoslovakia.....			Average 30 ↔				
Hungary 1964.....			145/1000 all women 156/1000 married women				
Yugoslavia 1964 (Slovenia).....		1/4	1/4				
Romania 1965.....	10%		70% ↔				
Japan 1950.....		130				1959-1962 increase ↔	
(Under 20 down.....1960		1000					
1/3 from 50-64).....1964		252 1000					
			55% ↔				

Women between 20 and 34 seek abortion most frequently.

c) *Number of Children*

	None	1-2	3-4	5+
Hungary.....	16% (58% single)	1962 1 child.: 84.1 legal abortions per 1,000 married women 2 children: 91.1	1962 3 children + 86.2 legal abortions per 1,000 married women	
Yugoslavia (1964).....	11%	55%	27%	7%
U.S.S.R.—(1960).....		33/1,000		
(1964).....		54/1,000		

- women with 1 or 2 children
- women with no children

Are generally the ones who seek abortion.

III—Consequences of social legislation<sup>16</sup>

- (a) *criminal abortions* declined radically.

Example: *Poland*

- 1955 (before legislation): 363 prosecutions
- since legislation (1956) prosecutions have diminished: 70

- (b) the mortality rate resulting from criminal abortions has also declined considerably.

	Before legislation	After
Czechoslovakia (1957).....	21 women died	(1965): 3 (1961-1965): 2/100,000 abortions
Yugoslavia.....	1.38%	0.036%
Japan.....		7/100,000
England and Wales.....	20-30 women annually	

- (c) Before social factors were accepted, they were disguised as medical grounds.

In *Poland* in 1956, when only medical grounds were permitted, there were: 18,000 legal abortions for medical reasons.

In 1957, after the law recognized social grounds, the abortions for purely medical reasons dropped dramatically to under 7,000.

- (d) Abortion is a *safe operation* when it takes place in a hospital and when modern techniques are used.

— *Czechoslovakia* (1961-1965):

7 deaths /405,000 legal abortions = mortality rate less than 2/100,000 operations

— *England* (1961): the mortality rate associated with childbirth was over 30/100,000 births.

(e) *After-effects*

- (i) When legal abortion is generally accepted by doctors and nurses, there is no evidence that it is associated with guilt feelings or *psychological upset* on the part of the patient.
- (ii) In *Poland*, before the war, almost 1,000 cases of infanticide before the courts—now the number is between 20-40.
- (iii) Although (in *Hungary*) large families are now rare, the number of first and second births has remained the same for 30 years and the number of childless couples has diminished.

(f) *Illegal abortions*:

The number of illegal abortions in the countries of eastern Europe depends largely on the adequacy of the family planning services. Some requests for abortion are refused (15-30%) because they do not offer sufficient grounds and many of these women resort to criminal abortion. In *England*, many of these cases do not arise because of the greater use of effective contraceptive methods.

<sup>16</sup> a), b), c), d), e), f) are taken from *Abortion in Eastern Europe—The Lessons for Britain, Report of Press Conference Held in House of Commons on January 31, 1967.*  
27874—4½

g) *Abortion rate per 100 births*<sup>17</sup>

	1952	1953	1956	1957	1958	1959	1960	1963	1964
Poland.....			18			23	35	40	
Bulgaria.....		12	28		40				
Czechoslovakia.....		11.1	12.9		37.5	47.9	52.2	42.2	
Hungary.....		4	30			100			165
Japan.....	40	57	70	72	68	68	66	58	51
Yugoslavia, 1964:									
					Gainfully employed			Housewives	
Abortions.....						2.4			2.8
Births.....						1.25			2.7

It is interesting to note that abortion legislation (social grounds) has not had the same effect in every country. In Poland, Bulgaria and Hungary, there has been a constantly increasing number of abortions/births. In Czechoslovakia and Japan, the increase has been followed by a decline. The proportion of abortions to births is generally 1 abortion for every 2 births. In Hungary, however, in 1964, the abortion rate exceeded live births by 4%.

h) *Methods of contraception used*

	Douche	Ogino	Temperature	Withdrawal	Condom	Diaphragm	Spermicides	IU Pills
	%	%	%	%	%	%	%	%
Czechoslovakia <sup>18</sup> 1961.....			5.6	42.9	17.3	0.5		
Hungary <sup>19</sup> 1964.....	8		7	52	22	4	5	
Yugoslavia <sup>20</sup> (Slovenia) 1963...			0.7	44.2	4.5	21.7	2.6	
Japan <sup>21</sup> 1964.....			30-40	10	50-60	5-10	15-25	6
←-----→								
(Yugoslavia: combined methods 6.9%)								

Note the high proportion of couples who use ineffective methods:

Withdrawal (Czechoslovakia, Hungary, Yugoslavia)

Ogino, Temperature (Japan)

Moreover, except in Japan, no couples were using intra-uterine devices or contraceptive pills, the two most effective methods now in existence.

--In Japan, however, it is interesting to note that the method most commonly used is the condom, that the diaphragm is used by 5%-10% of the couples and intra-uterine devices by 6%.

<sup>17</sup> Jan Lesinski, *Abortion indications and procedures*, in "Sex and Human Relations", op. cit. p. 66.

<sup>18</sup> V. Srb & M. Kutschera, "Marriage—Contraception—Abortion" *Demographic Revue (CSSR)*, 1961, "Family Planning and Population Programs" Ed. Bernard Berelson, the University of Chicago Press, 1966, 221.

<sup>19</sup> György Acsadi & A. Klinger, *idem.* p. 218.

<sup>20</sup> L. Andolsek, *idem.* p. 220.

<sup>21</sup> "Japan's Experience in Family Planning—Past and Present, Family Planning Federation of Japan, Inc." March 1967, p. 59 (Mainichi Newspapers).

(i) Contraception and abortion

Yugoslavia 1963: survey of 1,000 women 1 or 2 years after an abortion.<sup>22</sup>

27%: abortion=good planning method

30%: same ineffective method (withdrawal) as before

43%: modern contraceptives

Over a longer period we may observe more widespread use of contraceptives and utilization of more effective methods even in countries where the abortion rate is still high:

Changes of contraceptives in Hungary 1957-1963<sup>23</sup>

Description	1957	1958	1959	1960	1961	1962	1963
Condom (millions).....	4.5	4.2	6.0	7.5	9.1	10.6	7.3
Pills—'Timidon' (millions).....	2.8	—	1.1	0.5	0.4	0.4	0.5
Jelly—'Timidon' (thousands).....	21.7	48.3	78.4	86.1	110.9	89.7	125.5
Pessary—(Cap) (thousands).....	4.4	30.2	23.0	32.1	28.4	30.4	51.3
From another source, <sup>24</sup> we note:							
				1958-60		1960	1964
Hungary							
Regular users.....				21% aborted		52%	54%
Women obtaining abortions:							
(those who became pregnant despite contraception)						1960	1964
Omission or negligence.....						63%	44%
Misuse of method chosen.....						21%	27%
Defective contraceptives.....						1%	13%
Another survey carried out in Hungary (T.C.S. <sup>25</sup> )						1960	1964
Withdrawal (method used before abortion among women with 1 child).....						54%	44%
						1959 <sup>26</sup>	1964 <sup>27</sup>
Japan							
Periodic abstention.....						29.9%	30-40%
Diaphragms.....						4.7	5-10
Spermicides.....						13.1	15-25
Condoms.....						37.7	50-60

<sup>22</sup> Frank Novak, *Why does contraception meet so many difficulties in superseding abortion?* in IPPF (Singapore) No. 72, 1963, p. 635.

<sup>23</sup> E. Szabady & K. Miltényi, *Abortion in Hungary, Demographic and Health Aspects*, op. cit., p. 87.

<sup>24</sup> Andras Klinger, *Abortion Programs*, op. cit., p. 469.

<sup>25</sup> Ibidem.

<sup>26</sup> H. Fabre, *Contraception versus abortion*, in "Sex and Human Relations", op. cit. p. 74.

<sup>27</sup> "Japan's Experience in Family Planning—Past and Present", op. cit. p. 59.

Japan: survey carried out in 1959<sup>28</sup>

.39% of the women who obtained abortions had had some experience with contraception.

.59% were practising contraception at the time of their abortion. (It would appear according to Mr. H. Fabre "that these 59% of the women obtaining abortions were actually merely victims of illusory contraceptive methods")<sup>29</sup>

Japan: survey in 1965 by Mainichi Newspapers<sup>30</sup>

	Current experience %	Past ex- perience %	No ex- perience %
Experience .....	42.7	47.2	9.3
No experience ..	50.2	44.3	79.0
No answer .....	7.0	8.3	11.5

*What is the relationship between abortion and contraception in these countries?*

On the one hand, it appears that the ineffectiveness of the contraceptive methods employed would encourage recourse to abortion. On the other hand, it appears that (unlike our country) there is a tradition towards abortion as a means of regulating births. However, there does seem to be an evolution towards the use of more modern and effective methods of contraception (e.g. Yugoslavia, Japan). Moreover, it seems that the methods of contraception (sex education, education on the use of contraceptives, consulting clinics) to reduce the abortion rate have not been effective enough to date.

These countries appear to agree:

1. that the continuing use of effective contraceptives by the population as a whole will considerably reduce the abortion rate.

2. that such utilization cannot be achieved overnight, because it involves developing a preventative, rather than curative, attitude by the public.

E.g.: Yugoslavia: modern measures of prevention are used by the most progressive women. The most advanced group considers abortion a humane solution in those rare cases where contraception has been unsuccessful.

Another group appears prepared to use contraceptives after sexual relations. This would appear to be an intermediary step between contraception and abortion.<sup>31</sup>

*Measures now in effect in various countries:*

"In 1958, in Yugoslavia, the principle of the need to develop contraceptive services as part of public health measures was accepted; abortion will eventually be abolished but it should be allowed for the protection of women until knowledge and use of contraceptives are universal. It is our duty to educate people to realize for themselves that the relations between men and women, as persons with equal rights, should be humane".<sup>32</sup>

The problem which often arises in these countries, despite the existence of these many organizations, is the fact that, in order to allow the woman to procure an abortion within the time allowed, procedures have been speeded up (e.g. Hungary) with the result that no time has been left for any real contraceptive education.

There is also the problem of making people in favor of contraception, particularly doctors and nurses (e.g. Yugoslavia).

Needs of other types must also be satisfied in order to reduce the abortion rate. We note that in Japan the high abortion rate is maintained by the low charge, the availability of physicians, but also by the shortage of housing and space.<sup>33</sup>

<sup>28</sup> Survey carried out by Tatsuo Honda, Chief of the Research Department at the Tokyo Institute for Research into Demographic Problems: quoted by H. Fabre, *Contraception versus Abortion*, in "Sex and Human Relations", op.cit. p. 75.

<sup>29</sup> Idem p. 76.

<sup>30</sup> Japan's Experience in Family Planning—Past and Present, Ed. Minoru Muramatsu, Family Planning Federation of Japan, Inc., p. 59.

<sup>31</sup> Frank Novak, *Why does contraception meet so many difficulties in superseding abortion?* op.cit. pp. 636-637.

<sup>32</sup> M. Hrew, J. Herak-Szabo, A. Mojic, *Abortion* op. cit. p. 92.

<sup>33</sup> "Japan's Experience in Family Planning—Past and Present", opus cit. p. 79.

EDUCATION (PROGRAM)

Sex	Contraceptive
Czechoslovakia.....	Little effort; no independent contraceptive clinics. Not required to have contraceptive consultation (women obtaining abortions).
Yugoslavia.....Primary and secondary level.....	Primary and secondary level Health service and maternity program Co-ordinating Committee for Family Planning (gynecologist psychologist mental health expert social worker) Abortion Commission points out the unfavourable aspects of abortion and refers to family planning clinic. Commission: severe with repeated requests for abortion.
Poland.....48%-60% of the population: sexual hygiene instruction premarital education..... Marriage consultation..... Association for Responsible Motherhood Department of Public Health, gynecologist-psychologist legal expert educator sociologist.	Premarital education  Association for Responsible Motherhood
Japan.....	Family planning sponsored by the large companies (affects 1,246,900 workers in 55 companies) Results after 3 years: —birth rate down 40% —abortion rate down 70% <sup>33</sup> Survey in 1926 (1,903 women—abortion) —35.1% decided on abortion —21.5% decision made by gynecologist —36.2% received contraceptive information after abortion by gynecologist —51.8% no information <sup>34</sup>

<sup>33</sup> Nokuo Shinozaki, *The role of abortion*, IPPF (Singapore) No. 72, 1963, p. 633.  
<sup>34</sup> Idem p. 631.

N.B. This table is not exhaustive but attempts simply to indicate the principal organizations working in these countries for the sexual and contraceptive education of the population.

Chapter VII: Possible Solutions

The preceding chapters have shown that Canada does have a problem of illegal abortions as a result of the fact that some pregnancies are unwanted. It seems clear that society must assume its share of the responsibility in this problem. What can the Canadian Government do to solve a problem of this nature?

In this chapter, we shall carry out a study of the various attitudes which may be adopted towards the problem of abortion. For each attitude, we shall attempt to determine the consequences, both favourable and unfavourable, which would result from such a position.

For the sake of clarity, we have established fairly precise limits between each possible

attitude. Of course, several attitudes could exist at the same time.

a) Do nothing:

Such an attitude would quite probably mean that the number of illegal abortions would increase. This would only delay solution of the problem until later.

b) Adopt repressive measures:

If the abortions which are now being performed in our society are dangerous to the women who undergo them, we might decide to prevent those who carry out the abortions from doing so. And, in fact, our society already does possess an instrument to prevent those who perform abortions from practising their "art": the criminal code includes an article which condemns such persons. This solution then would simply involve greater effort to discover those who perform such operations...

It is true that some abortionists, because of the methods which they use, represent a serious threat to the health of those who resort to their services. But this is not true of the majority of abortionists. And, in particular, we must recognize that these people are performing abortions because they are meeting a demand of society. Unlike so many other so-called "needs", which are simply the result of scientific conditioning, abortions take place without any conditioning at all, without any advertising urging people to have them. Abortionists are the product of demand alone.

Any attempt to find the abortionists would lead not only to the conviction of a certain number of persons, but to the appearance of new recruits as well, for the root of the problem would certainly not have been cured and requests for abortion would continue to increase. This kind of repression would only aggravate the situation, since in this case, fewer doctors (i.e. the most competent abortionists), fearing the severity of the law, would risk their futures by performing such operations, and more incompetent abortionists would have to take their place. Moreover, since the risks were greater, the cost demanded for each operation would be higher, and the problem of finding an abortionist would be more difficult, with a resulting increase in the trauma of abortion.

#### c) Education for greater use of family planning.

Abortion takes place when a woman is pregnant and, for some reason, feels that this pregnancy is inopportune. The situation which made this pregnancy undesirable might have existed before the pregnancy began, or the child might have been wanted at one point but, because of a change in circumstances during pregnancy, continuation of pregnancy was no longer deemed desirable. If we are to reduce the number of unwanted pregnancies, we must be careful to distinguish between these two periods, since the action necessitated is different.

In most cases, the unwanted pregnancies were considered undesirable before they began. If the women involved had used contraceptive techniques, or had made better use of those they did employ, most of these unwanted pregnancies would never have occurred. Family planning thus appears to be one of the most effective tools in the struggle against abortion.

As well, in far less frequent circumstances, the pregnancy was wanted but once it was undertaken, it was no longer desirable: for instance, parents who want a child and learn during the pregnancy that it will produce a defective child might wish to terminate this pregnancy. Other factors might also lead to the same result; in such cases, the solutions to prevent these occurrences are complex. It seems clear that this category is much smaller than the former, and hence we shall limit ourselves to solutions which will allow people to avoid pregnancies which they feel are incompatible with their plans.

#### Means of promoting better use of contraception.

If a woman is to use a contraceptive technique effectively, two basic conditions must be fulfilled: there must be physical possibilities of consultation, i.e. persons competent in this field and capable of assisting her in the various techniques available; furthermore, the woman herself must be motivated to take advantage of such consultation.

As for the first condition, we feel that it cannot be fulfilled without the intervention of the public services, in a well defined direction.

In fact, we are experiencing the situation so well described by the *Conseil Supérieur de la Famille* (Superior Family Council) in its brief on birth control, submitted to the Department of Welfare on October 24, 1966: "Lastly, let us point out that a grave social injustice exists as regards contraceptive information: the couples most favourably endowed by wealth and education have access to this information, although it is sometimes difficult to obtain it from doctors. But the poor and those with less education are almost entirely deprived of the information and advice which they need."

Another body has spoken out clearly on this problem: the *Conseil des Oeuvres de Montréal* (Montreal Welfare Council).

"As regards birth control, we feel that it is urgently necessary that information clinics be made available to the public, and in particular to the families of the priority zones".<sup>80</sup>

Family planning in most cases implies the use of some contraceptive technique: female fertility is such that, without regulation, every woman could have an average of ten

<sup>80</sup> *Opération Rénovation sociale* (Operation Social Renewal) p. 19.

children, far more than most couples want; but the technique to be chosen is not the only factor which is important to the couple: if we are to take into consideration all the couple's objections, their overall relationship, their difficulties, we must be in a position to meet them in a suitable fashion in the family planning clinic. We feel that only a team composed of specialists from various professions is adequate to meet all the needs of the couple who come seeking assisting in family planning. Each specialist will be able to offer advice in his own field, thus giving the couple a more complete and hence, more satisfactory, consultation.

The team should normally be composed of: a doctor, a nurse, a social worker or psychologist. It could also consult a psychiatrist, a gynecologist and in certain areas, a moral advisor.

These clinics should be open to all, —in other words, distributed geographically throughout the country and free of charge. In certain areas, such as the disadvantaged neighbourhoods, the team will probably need a specialist in the social sciences who can find ways to motivate people to use the services offered them (social organization, group sessions, etc.). A study carried out in The Netherlands shows how important these clinics are in reducing abortions. The person responsible for this study described his findings as follows:<sup>37</sup>

"Among three groups of women, from the same social background, we examined the relation between the frequency of induced abortion and the contraceptive methods employed in 1932, 1939 and 1945 respectively.

We found that among those attending our centre regularly the number of abortions, which amounted to eight per cent prior to 1932, the year our clinic opened, decreased during the following years under review to one per cent in 1939.

Thanks to instruction in modern contraceptive methods, under systematic medical control, the results for an "elite" group (as we called those who followed our prescriptions most strictly and who came for check-ups with touching regularity) were still more favourable: 0.4 per cent, whilst the average for the other women was 1.3 per cent.

<sup>37</sup> Cf. Vom Emde Boos, The possibilities and limitations of instruction in the use of contraception, in *Sex and Human Relations*, 1964.

The closing of our centre by the Nazis during the occupation led to an involuntary experience: our clientele, deprived of our methods, was obliged to fall back on former primitive methods, with the unfortunate result that the figure had increased to 10 per cent in 1945. Only after the re-opening of our centre did the percentage decrease again.

(In parenthesis, it must be said that the conditions of the war and of the occupation themselves played a relatively insignificant role in this trend)."

Below are our suggestions for the establishment of adequate facilities:

#### 1) *Establishment of consultation centres.*

The government should assist financially in the opening of family planning consultation centres. Such centres could be located either in hospitals, provincial or municipal health services or social agencies, depending on the availability of facilities in the area concerned; whatever location is chosen, the staff should include the joint team described above.

The consultation centres should also be in a position to provide information on the possibility of having children affected by hereditary disease. This means that, if necessary, in cases where one child already reveals some defect, the Centre could consult a geneticist.

#### 2) *Training.*

Family planning is still a recent development and, as the *Conseil Supérieur de la Famille* has already pointed out, few professional people are sufficiently informed in this field. Training should thus be provided, first of all, for professional people already in practice and secondly, in the schools which train these professionals.

We advocate general preparation for all professional groups concerned, since we are aware that even if public services do exist, not everyone will use them, and some will continue to seek private consultations to handle the problem. Since family planning is necessary for all couples, we do not feel that such training would be wasted.

Even if excellent facilities are available throughout the country, we must see that people make use of these consultation facilities.

In the short term and in order to achieve results as rapidly as possible, rational utilization of the mass media must be planned: the press, radio and television could

be used to educate the population not only on contraception but on the entire field of sexuality.

In the long term, we must see that people are prepared to accept sexuality more fully, to abandon the traditional taboos and learn the scientific concepts of sexology: this could be done by the inclusion of appropriate courses in sex education at the various educational levels.

A second series of measures could be envisaged, aimed at reducing the number of situations where pregnancy is unwanted. In many cases, the factors which lead to the rejection of pregnancy originate more in poor social organization than in a purely personal desire to have no children. As we have already seen, our society is far from hospitable towards children.

It is not our intention here to study in detail the changes desirable in our society to make it friendlier towards children. We shall limit ourselves to simply outlining several possible improvements to initiate family policy.

Every child born into a family requires a certain portion of the family income to ensure him food, clothing and education. With each new child, the needs increase, but incomes do not correspond proportionately to this increase, as shown in a recent volume:<sup>38</sup>

*"The Union internationale des organismes familiaux* (International Union of Family Organizations) has attempted to determine, for a certain number of western European countries, the decline in family living standards in relation to increases in the number of children, when the income remains constant; using as their basis a working class family with no children, in which only the husband is employed, they estimated that the standard of living would decrease as follows:<sup>39</sup>

- 22 per cent with 1 child
- 36 per cent with 2 children
- 46 per cent with 3 children
- 53 per cent with 4 children
- 59 per cent with 5 children
- 63 per cent with 6 children.

<sup>38</sup> *Naissances planifiées* (Birth control); Hubert Charbonneau and Serge Mongeau, Éditions du Jour, 1966.

<sup>39</sup> P. Laroque. *Niveau de vie des familles, sécurité sociale, compensation des charges familiales* (Family standards of living, social security, compensation for dependents). World Congress on the Family, Paris 1958.

In reality, the decline is even greater since most women without children are employed and mothers of one child are, in many cases, employed, while those with two or more children must remain in the home. Under these conditions, a family of two children, when the head retains the same income, may see its standard of living decline by three quarters. Fortunately, incomes increase with age and thus with the number of children, but this parallel is still insufficient in Quebec, as has been pointed out by J. Henripin: "Between the ages of 20 and 40, the income of a married man almost doubles, on the average, while his responsibilities are simultaneously multiplied by 4".<sup>40</sup> Hence, more than one quarter of all non-farm indigent families are families with 2 or more children, because the increase in income which comes with age is apparently inadequate in some disadvantaged occupational categories".

What can be done about this situation? Society must turn its attention to it immediately, since it is dependent on the birth of more children but leaves the entire financial responsibility for them to the parents, who will not continue much longer to have children through ignorance. We must therefore be prepared to ensure each citizen of a minimum income, introduce a system of family allowances which are of real assistance to parents, provide free medical care at least for pregnancy, childbirth and the first months of the child's life, and make education on all levels available to those who are held back by low incomes.

Another important problem and one which the government of Canada has recognized by setting up the Royal Commission on the Status of Women, arises from the determination of women to achieve greater emancipation. For many, this means seeking higher education, practising their profession or simply working outside the home, or perhaps participating to a greater extent in community life by a greater contribution to the various events taking place in the community. All this is difficult when young children tie the woman to the home. Conciliation of the two roles of motherhood and full membership in the community, so important for full personal

<sup>40</sup> J. Henripin. *Niveau de vie des familles et prestations familiales au Québec* (Standards of living and family allowances in Quebec). Conference of the Fédération des Services sociaux à la famille (Federation of Family Social Services), Montreal, 1965.

development, cannot be accomplished until society becomes more understanding of women, for example, by establishing nurseries offering every assurance of adequate care for children, promoting the training of family helpers to complement the mother in her role and replace her at certain times of the day, encouraging employers to show more understanding for women through adequate maternity leaves which the State could complement by allowances to replace the income involved in leaving work for a period of this length. Finally, if we wish to avoid the situation now prevalent in France, where the inadequate size and shortage of housing force many couples to delay otherwise wanted pregnancies, we must begin now to concern ourselves with the task of providing those who want it with housing suitable to the size of their families.

#### *Difficulties to be anticipated:*

The means which we have mentioned of reducing the number of abortions entail certain difficulties in implementation.

The establishment of adequate facilities and the training of the personnel to staff them will require major investments; most important, they cannot be expected to produce results overnight. As well, any publicity will certainly lead to an increase in abortions, at least for several years: the reasons given to persuade couples to use contraception will reach some after pregnancy has already begun, and will lead them to wish that the child were not going to be born. Moreover, almost all the existing techniques have the drawback of involving a certain risk of failure: even if they are used to a greater extent, some women will find themselves with unwanted pregnancies.

In the long run, such measures will certainly lead to a great reduction in the desire for abortion. Thus, we believe that, if some day abortion were permitted in Canada, whatever the conditions of this change (solutions (d), (e), (f) or (g), the measures advocated in this section of our brief should be implemented.

Before undertaking a study of the following solutions, we feel that we should emphasize the importance which would be associated with any legislation leading to legalized abortion. In fact, abortion implies the denial of a potential life and respect for life remains one of the fundamental values of our society. No one yet has been able to determine the exact moment at which human life begins.

d) *Permit abortion when the physical health of the mother is threatened or when it is certain that the child will be affected by congenital malformation.*

The mother's health may be seriously endangered by pregnancy, whether because the pregnancy is complicating an existing serious illness, or because a serious illness develops during pregnancy, an illness which may be caused by the pregnancy or simply associated with it. It is quite difficult to establish the risk involved in pregnancy when there is a serious illness already present, as for example pregnancy in a person with a single weak kidney, which is chronically infected and has been causing hypertension before the pregnancy. Lists of these illnesses are given in obstetrical books, including Eastman's Textbook of Obstetrics, 13th ed., 1966, and Medical, Surgical and Gynecological Complications of Pregnancy, by the Medical Staff of the Mount Sinai Hospital, New York. Most American obstetricians agree that cardiovascular conditions, congenital heart disease already operated on unsuccessfully, etc.; chronic renal conditions, particularly when associated with hypertension; cancer, serious diabetes; debilitating neurological disturbances, recent cerebral hemorrhage, demyelinating diseases, etc.; are conditions which may be aggravated during pregnancy and offer a very limited prognosis.

It would serve no purpose to give a complete list of the indications. Dr. J. G. Moore reports that 41% of the therapeutic abortions performed in a group of California hospitals between 1953 and 1963 were carried out because the mother was suffering from some illness; 27% of these abortions for maternal medical reasons were done on a highly varied group of medical indications (approximately 50) indicating that each individual case, whether it involves one illness in particular or group of illnesses, must be studied individually. No law, however complete, could cover all these indications, particularly since medical progress will continue to modify the prognosis of these pregnancy-related illnesses, as rapidly as it has over the past 20 years.<sup>41</sup>

Genetic factors and the conditions of the intra-uterine environment, foeto-maternal relations and the physical conditions of the external world influence the entire development of the embryo, but to what extent? The

<sup>41</sup> See: Maternal Medical Indications for Therapeutic Abortion. Keith P. Russell and J. George Moore. Clin. Obst. and Gynec., March 1964, p. 43.

effect of radiation on the foetus is well known, as is the action of certain drugs. The possibility of congenital malformation (haemophilia, several cases of anencephaly in the same family, etc.) also deserve attention. The defect under consideration must be serious, and through the physical or mental damage which it causes, must create a serious difficulty in adaptation and functioning.

The same illness contracted during pregnancy involves a different risk for the foetus, depending on the time at which it occurs. The threat to the foetus of German measles in the mother differs in nature and gravity of malformation, and even in number of malformations, depending on whether the disease appears during the seventh, twelfth or twentieth week of pregnancy. Each illness must be considered not in terms of general risk but in terms of the specific risk which it involves at a given point in the development of the embryo.

Parents may be willing to accept different risks, depending on their age, the children they already have, their previous experience with abnormal children and, in particular, the social and medical assistance which is available to them from society. "For example, a primipara of 40 who has contracted rubella during the third month of pregnancy may accept the 10% risk of giving birth to a child with congenital abnormalities. However a pregnant woman of the same age who has already given birth to several healthy children or a young primipara who has the chance of having other children might not want to accept such a risk. Similarly, certain parents who have already had children suffering from a fatal disease such as the Tay-Sachs or Niemann-Pick diseases, might not want to take the 25% risk of having similar children. On the other hand, other parents, knowing that a child with the disease would die quite young, have been willing to accept other pregnancies in the hope of having a normal child".<sup>42</sup>

If therapeutic abortion is permitted when the mother's health is threatened or when it is certain that the child will be affected by congenital malformation, several points must be considered in the preparation of the legislation:

1. each case must be studied individually, in order to determine both the foetal and maternal prognoses;

2. the same risks are not acceptable to all couples;

3. the risks must be assessed by a team of competent medical specialists. Cases often involve rare diseases whose causes are not known, and whose prognosis is based solely on clinical study, which is of necessity statistical and MAY BE INTERPRETED in the light of several factors.

4. the couple must also be advised by a team of specialists in the social sciences who can assess the moral, socio-economic and ethnic aspects involved in all these diseases.

5. lastly, it seems clearly impossible, in the face of the problems of risk to the mother during pregnancy and danger of foetal malformation, to dissociate three solutions which, although not associated in time, work towards the same end: contraceptive techniques, abortion and sterilization. Those authorized to decide on abortion should also be able—legally, administratively and practically—to recommend other solutions, such as special social assistance to the couple, and effective contraceptive techniques, whether reversible or irreversible, as for example sterilization.

The integration of these five points would offer all the flexibility required to respect the needs of every pregnant woman exhibiting certain PHYSICAL risks, to assess the danger to the foetus in the light of medical knowledge, which is growing every day and which will allow even more effective means of detecting risks during the life of the foetus, and to use the constantly growing social potential of the State.

From the practical point of view, some question may arise as to the value of a measure of this nature intended to reduce the number of illegal abortions. In fact, in all countries where abortion has already been legalized, medical indications are one of the reasons where abortion has already been legalized, medical indications are one of the reasons least frequently advanced for abortion. For example, in Yugoslavia, in 1965, 6 per cent of the abortions were performed for medical reasons, the other 94 per cent for various economico-psycho-social reasons. Dr. Hall notes that if abortions were performed

<sup>42</sup> Ralph E. Moloshok, Fetal Consideration for Therapeutic Abortion and Sterilization, in Clin. Obst et Gynec. March 1964, p. 82.

for medical reasons only, the rate would be less than 1/10,000 live births; when psychiatric and foetal indications are accepted as well, the rate increases to 1/1,000.<sup>43</sup>

e) *Permitting abortion where the physical health of the mother is endangered*

Psychiatrists have not yet reached agreement as to the psychological effects of an unwanted pregnancy. The psychiatrist of our team sees no psychiatric indications connected with abortion in the sense that termination of a pregnancy would bring about an improvement in a serious mental condition, or would stave off the occurrence of such sickness. In other respects considerable important psycho-social reasons might exist: a woman, without becoming psychotic, might experience a great sense of frustration because of an unwanted pregnancy and have to suffer from the consequences thereof for years.

The moment abortion is permitted for psychiatric reasons but not accepted for social reasons a very heavy responsibility is laid upon the shoulders of psychiatrists: the more compassionate among them, and indeed those who are more mercenary, will tend to allow a host of other indications pass for psychiatric symptoms. In that respect Poland's example is conclusive: the 18,000 legal abortions performed on medical grounds in 1956 dropped to 7,000 the following year when the law was liberalized to include indications that were of a social nature. In another country, the United States, a recent study has shown in what measure therapeutic indications taken by themselves become discriminatory: in New York, between 1960 and 1962, the therapeutic abortion rate in private hospitals was 1 out of 256 births; where private service was given in incorporated public hospitals the rate was 1/416, while in the wards it was 1/1,429; and lastly, in municipal hospitals the rate was only 1/10,000.<sup>44</sup> The differences in these rates are due principally to psychiatric indications. Women with better education and higher incomes always seek out those physicians who see some danger to the women themselves should the pregnancy considered unwanted be prolonged.

f) *Permitting abortion in cases of rape or incest*

Countries which have liberalized their abortion laws have, as a first step, agreed to accept cases where rape and incest are indicated, sometimes even including pregnancies of young teenage girls. Even though one dislikes to see a pregnancy resulting from physical violence or family promiscuity continued, the pregnancy itself raises a number of problems. How can one be sure that impregnation is actually the result of rape or incest? Must one believe every pregnant woman who complains that she has been raped? Should one accept medical or legal evidence as to the date of impregnation? At the present time there is no medical means for establishing the moment impregnation occurs unless the physician can examine the embryo or the foetus, no means for infallibly identifying the one responsible for the continuing pregnancy, in other words, the father of an embryo. If we are to accept legal evidence, we must be able to obtain such evidence quickly, with two weeks time, for if an abortion were allowed it would be better that it be done as soon as possible. The third month of pregnancy is the period during which a pregnancy may be interrupted with the least danger.

Dr. C. Tietze has estimated that chances that a pregnancy will occur from engaging in sexual intercourse once during the month are from 2 to 4%. How can anyone be sure that sexual relations have occurred only once during the month?

It is well-nigh impossible to find out how many abortions should be performed each year on account of rape. At the present time all cases of rape are not reported to the police; all those reported are not established before courts of law. Basing his findings on cases reported to the police and on pregnancy probabilities Robert E. Hall has already estimated that, in the City of New York, 30 abortions per year should be performed because of rape. We have no statistics for cases of incest.

Whatever be the legal and administrative means for obtaining an abortion each time pregnancy occurs on account of rape or incest, abortion should be deemed the best solution after consideration of each particular case. All women do not react to a pregnancy in the same way, whether or not caused by rape, and, where a doubt exists as to the time

<sup>43</sup> Robert E. Hall, *Therapeutic Abortion and Sterilization*, in *Advances in Gynecology and Obstetrics*, Marcus and Marcus, 1966.

<sup>44</sup> Robert E. Hall; *op. cit.*

of impregnation, especially in the case of a married woman, medical and social help properly directed might enable her to accept her pregnancy and to give the child the care it requires.

*g) Inclusion of abortion in the social indications*

Society is composed of many individuals; it is responsible for the welfare of each of them, and for that of all of them as a whole. Abortion may be considered from the following two points of view: the good of the woman who wishes to undergo the operation and the good of the society in which she lives, which might deem the fruit of this pregnancy undesirable. We shall consider this second aspect first.

Every day it is becoming increasingly possible to predict those cases in which a pregnancy will terminate in the birth of a child physically or mentally unsound: already through the extraction of amniotic fluid it can be learned whether a child will be mongoloid. As there is a steady decrease in the number of children born in proportion to the population as a whole, society may wish to receive only the healthier children and to try to eliminate, before birth, those it may deem undesirable. There has been a law in Alberta since 1914, called Eugenism, by which sterilization of the mentally weak may be allowed if the immediate family circle grants permission for such an intervention. The selection might extend to such pregnancies as would terminate in the birth of a stillborn child. This kind of eugenism might be attended by dangers that we shall not study but which are such that, before a government could adopt a measure of that nature it must examine its conscience a long time.

A woman, for her own good, may wish to terminate her pregnancy. We have already referred to such measures in respect of cases where her physical or mental health might be in jeopardy. It only remains to consider cases in which the reasons invoked for motivating such an intervention have less weight, for they have a psycho-economic-social basis. Any kinds of rules one would like to establish so as to set a limit as regards such indications run the risk of falling into the arbitrary: what is amount of income and what are the number of children of which it can be said that the economic conditions of such a family are not sufficient to support another child? How far will a woman who rejects her pregnancy keep

the same attitude towards her child? Which young girls whom pregnancy has caught by surprise can adapt themselves to the condition of an unmarried mother without dire consequences to themselves or their children? So many questions, to which several others must be added, which give a preview of the difficulties that would be encountered by the lawgiver who would like to define the indications very clearly.

The conclusions we are able to draw from a study of the laws of various countries where social causes are accepted as reasons for abortion lead us to believe that the best legislation for including such indications is that in which no definite limits are set, the final decision being left with a Committee that has resources at its disposal adequate to appraise each individual case. Such committees exist in Sweden where in the end only 3 per cent of the applications for abortion are granted.

The following is the form of committee that seems best adapted to a situation like our own. Committees could be established on a regional basis, each having to cover a specific district. They would have their headquarters outside hospitals and would be composed of some ten members who would take turns, three members sitting at each session; such a system would make it possible to avoid knowing in advance who would be sitting. Committee members could be chosen from among various walks of life (physicians, psychologists, social workers) care being taken to ensure some vocational or professional diversity. The committee would not judge persons, but cases: its appraisal would be therefore based on an anonymous file, to include the attending physician's appraisal (who will do the abortion if it is agreed to), a social worker's appraisal and finally, a psychiatrist's appraisal, which would take into account both the dangers to the woman of a continuance of the pregnancy and of its termination. Where the advice of a geneticist is indicated the committee could ask for it. In making its decision the committee might also take certain criteria yet to be established into account, but the criteria would take all aspects of the problem into account. Those relating to the present situation (economic conditions, ages of the other children, the mother's physical and mental health, etc.) and those having to do with the way in which the situation develops (effect on the family, acceptance of the child by the mother, etc.).

Where an abortion is allowed, it is performed by a gynaecologist in the hospital,

and after the operation the patient is again seen by the psychiatrist. Where it is not allowed, the woman is helped in continuing her pregnancy either by the social service or a psychiatrist, as the case may be.

The State should assume responsibility for financing these committees and the consultations necessitated by each application, otherwise the poorest patients would be immediately eliminated.

The work of the various committees should be co-ordinated by a provincial organization which would then be prepared to decide what measures would be adopted so that the service would work better.

#### *Advantages of this commencement:*

The opportunity of having recourse to a legal abortion for economic-psycho-social reasons presents certain advantages, on condition, however, that at the same time the law is amended, certain measures be inaugurated such as the committees to which we have alluded.

In the first place it would then be possible to help a woman with a pregnancy she deems unwanted at a time of great disarray: opportunity would then be afforded her of quietly appraising, with the assistance of various specialists, her own situation, of taking time for reflection and for finding where the best solution to her problem lies, whether continuance or termination of her pregnancy.

Then, for the first time it would be possible to establish exactly where applications for abortion originate and, as a consequence, to undertake such measures as are suited to lessen the number of abortions.

Lastly, whatever may result from the Committee's decision, it would provide an ideal opportunity for helping the one who has appealed to the Committee in such a way that there would be no repetition of unwanted pregnancies: if the conditions which caused the rejection of the pregnancy were merely temporary, the teaching of contraceptive techniques would make it possible to avoid any repetition of the problem, whereas, if the condition that caused the rejection of the pregnancy is permanent, there would be grounds for advising and facilitating sterilization.

#### *Dangers to be feared:*

The admission of abortion to economic-psycho-social indications would no doubt mean

that a certain number of women would obtain legal abortions. One might wonder what the negative effects of such a measure would be.

#### *In respect of society*

We have already pointed out that abortion implies the voluntary interruption of potential life. Respect for life is a fundamental value in our society: it is especially because of that value that the death penalty has just been abolished. Might it not be feared that the intervention contemplated in respect of life could cause some confusion in the hierarchy of values? Is the comfort of one individual to be placed on one side of the scale, and a potential life on the other? Besides, what impact will such a change have on the evolution of values in society? So many unanswered questions. The experience acquired by other countries is still of recent date, yet it would already appear that they have not returned to barbarity. In fact, it might be possible to prevent any such confusion in the hierarchy of values if the law were not merely an enlargement of permission, but rather a right of resource to an exceptional measure where pregnancy represents a disaster from a personal or family point of view.

In some countries abortion seems to be the favourite means for spacing births. Would that be the case here, and would people resort to it as an easy solution? In this instance likewise the experience of other countries shows how unsatisfactory have measures connected with amendments to abortion laws been: all too often such countries have been satisfied with providing people with the opportunity of obtaining an abortion without at the same time offering them adequate means of contraception. We are one of the very few countries in which modern contraceptives enjoy such diffusion, and abortion is far from being a part of our tradition and our morals. It may therefore be taken for granted that recourse to this procedure will remain the exception, especially if such measures as those examined in (c) were inaugurated.

A government might consider abortion to be a means of escaping its social responsibilities: the fewer deformed or mentally ill children, the less need for social security or social assistance, etc. A government which would opt for such a solution would spare itself difficulties that are both great and lengthy, for a certain increase in the population is necessary to a country's development.

In any case the governmental authorities will one day have to embark on the opposite and easy course, for every year pregnancies become more rational and less the fruit of ignorance, and people will only bring children into the world to the extent that society will show itself receptive and understanding.

To conclude, the widening of abortion laws would present certain dangers for society; nevertheless, it would appear that in preparing for them beforehand they may in large measures be obviated ahead of time.

#### *In respect of the individual*

We have spoken of the use that society might wish to make of abortion for eugenic purposes. Certain moral problems might then arise, for though the operation might be legalized, certain religions will continue to oppose such an intervention. In all other cases of abortion the problem would not arise, since no one would be compelled to resort to it. Even in the case of a very young unmarried mother it is our conviction that should permission to obtain an abortion be in effect, the person who is pregnant should be the one to decide whether or not she should apply to the committee. Doctors for whom this creates a moral problem should not be forced to perform abortions against their wish.

The artificial interruption of a pregnancy could have deleterious effects on the person undergoing it. Some Canadian psychiatrists believe that the person who has obtained an abortion invariably becomes depressed: serious studies made in countries where abortion is allowed have not revealed that this is the case. Accordingly, Dr. H. Hoffmeyer has asserted that after 30,000 legal abortions performed in Copenhagen not one serious psychological disturbance has occurred that might be blamed on this intervention.<sup>45</sup>

In a more systematic study two American writers analyzed the reactions of a group of women following therapeutic abortions. They found that 95 per cent of them considered the abortion to have been the best answer to their problem. Two-thirds said that the immediate psychological effect had been favourable; after several months 83 per cent of the reactions were reckoned to be favourable. Four-fifths of the women remarked that

they were emotionally better after the abortion than before they had had it.<sup>46</sup>

The psychological reactions to be feared are divided into four categories:

1. immediate sense of guilt;
2. delayed sense of guilt and appearance of introverted depression;
3. in the case of very young women, poor development of the adult stages of the personality;
4. hatred of the husband or lover who pressured her into having the abortion.

A good psychiatric examination prior to the abortion operation would in the vast majority of cases, permit detection of the possibilities of such reactions so that the abortion might either be refused or the necessary treatment undertaken.

As for the physical dangers from an abortion Dr. Mehlan, on the basis of the experiences of socialist countries, has noted the following:

"Acute complications and death after legal abortion are rare. In the years 1963 and 1964, there were no deaths among 140,000 cases of legal abortion in Czechoslovakia, and none among 67,000 operations in Bulgaria. In Hungary in 1963 and 1964, there were two deaths among 358,200 legal abortions; and in Yugoslavia in 1961, five among 104,700 operations.

It is difficult to give a precise account of the morbidity associated with legal abortion. In general, an insignificant number of cases of damage to health is reported, and even this number is declining as physicians become more experienced. In Czechoslovakia, early sequelae represented 5.2 per cent of the cases in 1958 and 2.3 per cent in 1963, and late sequelae 12 per cent of the cases in 1958 and 4.9 per cent in 1963. The figures for Slovenia for 1962 are 2.8 per cent for early sequelae and 1.9 per cent for late sequelae. Czernoch reported the following data in cases of abortion in a large hospital in Prague: injuries, less than 01. per cent; infections, less than 0.5 per cent; and hemorrhage, 0.3 per cent. The number of complications particularly infections, appears to increase with duration of gestation, especially after the twelfth week. Special problems also exist in interrupting the first pregnancy in girls under 17 years of age. A stay in the hospital of less than three

<sup>45</sup> Quoted by Alexander Simon, *Psychologic Indications for therapeutic Abortion*, in *Clinical Obstetric and gynecology*, March, 1964.

<sup>46</sup> Niswander, K. R. and Patterson, R. J.: *Obst. & Gynec.*, 29: 702, May 1967.

days following the operation also appears to increase the incidence of late sequelae".<sup>47</sup>

Nearer home, and in conditions similar to those at our disposal if abortion were legalized in Canada, Dr. Niswander has reported that out of 320 curettages carried out in a hospital as a method of abortion, the complications consisted of 5 cases of perforation of the uterus of which 2 gave some trouble, 3 cases of excessive bleeding and 4 cases of temperature in post partum. None died.<sup>48</sup>

It would appear that short-term physical danger occurs especially in cases where the curettage is performed after three months of pregnancy. As regards long-term dangers, which might be repeated spontaneous abortions (through inability of the neck of the uterus), sterility (as a result of infection), extra-uterine pregnancies (as a result of infection), reports of such complications come especially from countries where abortions are performed outside hospitals and by midwives, as in the case in Japan.<sup>49</sup>

Some writers have expressed the fear that as a result of a therapeutic abortion a wife may give birth, in later pregnancies, to children having congenital deformities. This fact has not yet been proved since it is known that normally 1.5 to 4 per cent of the population in general are found to be deformed, according to the definition given to the word deformed.

<sup>47</sup> K. H. Mehlan, *The Socialist Countries of Europe*, in *Family Planning and Population Programs*, Berelson ed., 1966.

<sup>48</sup> K. R. Niswander, *Obst. & Gyn.*; 28; p. 124, 1966.

<sup>49</sup> See Yuyoka Moriyama, in *Harmful Effects of Induced Abortion*, Family Planning Federation of Japan, 1966.

To conclude, the physical dangers connected with legalized abortion seem rather to stem from the conditions in which it is performed, from the experience possessed by the person operating and from the period during the pregnancy when the intervention occurs: and lastly, from the number of previous abortions a woman has had.

#### *Conclusion:*

What conclusion can be derived from the presentation of so many points?

In the first place it is obvious that abortion is a complex problem and an easy solution is impossible. We therefore venture to repeat our suggestion to push forward research in this field. The decisions to be made are of too great importance to be hurried: whatever is done will have far-reaching repercussions that must be foreseen in advance and, where there is a possibility of their being unfavourable, if possible prevented.

In the second place we believe it essential to point out how important it is to adopt a reasonable point of view in a field such as this. An emotionalism that hinders consideration of all the solutions to a problem it is difficult to consider objectively must be avoided.

We trust that this contribution to the Health and Welfare Committee will help throw a little more light on the abortion problem to which we have closed our eyes too long.

SCHEDULE I  
ATTITUDES OF CANADIAN<sup>1</sup> AND AMERICAN PHYSICIANS  
TOWARDS ABORTION LEGISLATION

"More than a third of the Canadian physicians answered a questionnaire sent to them by Modern Medicine in Canada in respect of the laws pertaining to therapeutic abortion. The number of physicians participating in this study was remarkable."

7,482 replies were retained, representing 30.3 per cent of Canadian physicians.

"In respect of the total number of physicians, most replies received came from specialists, while the fewest number came from interns:

Percentage of replies from physicians compared with the total number of physicians*			Body of Physicians
	Replies		
General Practitioners ..	45.6		45.3
Specialists .....	48.8		42.8
Interns .....	5.6		11.9

\*Based on the most recent data compiled by the "Canadian Medical Directory."

	The Whole of Canada	Interns	General Practitioners	Specialists
	%	%	%	%
Yes .....	85.0	87.8	82.3	86.0
No .....	12.3	9.9	14.3	11.9
No (but answered Question No. 2) ..	2.7	2.3	3.4	2.1

"If only the replies in favour of liberalizing the laws concerning therapeutic abortion be considered, British Columbia stands first and Quebec last: British Columbia 94.1 per cent (on the basis of all answers received in that province), Ontario 88.2 per cent, the Prairie

From the point of view of geographic location the highest proportion of replies compared with the total number of physicians was received from British Columbia. The percentage of physicians per region in respect of the total number of physicians across Canada, (given in parentheses), was as follows:

British Columbia 9.4% (10.4%); the Prairie Provinces 18.8% (16.2%); Ontario 41.4% (37%); Quebec 24.5% (29%); the Maritimes 5.9% (7.4%)."

Opinions of Physicians (Modern Medicine In Canada)

—Question No. 1:  
"Are you in favour of liberalizing the present laws respecting therapeutic abortion?"

Provinces 84.5 per cent, the Maritimes 83.2 per cent, Quebec 74.6 per cent."

—Question No. 2:  
"It listed eleven specific and lawful cases that might be grounds for a therapeutic abortion."

	% of all replies
Undoubted risk that mother will die .....	77.7
Irrefutable evidence of foetal anomalies .....	72.1
Pregnancy following rape or incest .....	70.2
Undoubted risk that mother's health will be affected .....	68.2
Undoubted risk that the mother's mind will be affected .....	61.3
Undoubted risk that mother will commit suicide .....	59.2
Possibility of foetal anomalies .....	51.3
Undoubted risk that mother's emotional stability will be affected .....	39.2
Social-economic reasons .....	24.5
Illegitimacy .....	20.7
Where a pregnant woman requests it for any reason .....	9.4"

N.B. In this Schedule is to be found almost a verbatim report of the results of that investigation as published in Modern Medicine in Canada's Statistical Study: Physicians are strongly in favour of changing the laws governing therapeutic abortion, May 67 pp. 49-54.

*Opinion of Physicians (Modern Medicine in the United States)*

To the question "Are you in favour of liberalizing the present laws respecting therapeutic abortion?" the rate of affirmative

replies received from American physicians rose to 96.6 per cent, that of negative replies to 13.1 per cent.

Specific and legal cases, and the proportion of physicians in favour of them were as follows:

Specific and legal cases, and the proportion of physicians in favour of them were as follows:

	%
Undoubted risk that mother will die .....	76.5
Pregnancy following rape or incest .....	75.1
Irrefutable evidence of foetal anomalies .....	71.7
Undoubted risk that mother's physical health will be affected	69.7
Possibility of foetal anomalies (exposure to German measles, incompatibility of the Rh factor, transmissible disorders)	62.7
Undoubted risk that mother will commit suicide .....	60.6
Undoubted risk that mother's mind will be affected .....	44.5
Illegitimacy .....	29.1
Social-economic reasons .....	26.6
Where a pregnant woman requests it for any reason .....	14.3

SCHEDULE II  
ATTITUDES OF FEMALE READERS  
OF PHOTO-JOURNAL CONCERNING  
A CHANGE IN THE ABORTION LAWS

On November 22, 1967 Dr. Serge Mongeau placed a questionnaire in the Photo-Journal in the feature *Médecine d'Aujourd'hui* in order to discover persons' attitudes concerning a change in the Abortion Act. The same questionnaire also appeared the following week.

*Limits of Investigation*

They were the same as in November, 1966: (cf. Chapter I) The public reached by Photo-Journal do not represent the total population of Quebec. However, this second investigation differed from the first in that it had to do especially with attitudes towards abortion and not with abortive behaviour on the part of women (as in the first investigation).

*Questionnaire*

Are you in favour of a change in the Abortion Act?

Yes ..... No .....

IF YES, do you believe that abortion should be permitted:

- where the mother's health is threatened?
- where the health of the unborn child is threatened (physical disability, etc.)?
- where the mother is unmarried?
- where the pregnancy is the result of rape or incest?

—where husband and wife find the time is not propitious to have a child (reasons of money, etc.)?

PLEASE reply to the following question on another sheet: "Why do you wish abortion to be permitted?"

If you are NOT in favour of a change in the Act, is it because of:

- religious reasons?
- fear of consequences for the mother?
- respect for life?
- danger of reducing the percentage of French Canadians?
- other reasons; if yes, which? list on a separate sheet.

*Replies*

314 women and one man<sup>1</sup> replied to the questionnaire between the 24th and the 30th of November, 1967. Other replies arrived too late to be included in this work.

Out of the 314 questionnaires examined:

- 247 declared themselves outright to be in favour of a change in the abortion laws.
- 27 both for and against.
- 40 against any change.

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Among the 314 women who replied to the questionnaire were to be found:

- 252 married women
- 50 single women
- 12 others (widowed, separated or divorced, in concubinage)<sup>2</sup>

the opinions of the 252 married women towards an amendment to the Abortion Act were divided as follows:

- 198 in favour
- 21 both for and against
- 33 against

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<sup>1</sup> We have not taken this case into account in our calculations.

<sup>2</sup> This category is so few in number that it cannot adequately be interpreted.

of the 50 unmarried women:

- 39 in favour
- 4 both for and against
- 7 against

1. Demographic characteristics

A—"For" a change in the Abortion Act

The 198 married women who were in favour of an amendment in the Abortion Act had an average of 2.089 children; the age of the youngest child of each was:

1 d.-2 years	2½-5 years	6-12 years	13-19 years	20+
27.3%	34.9%	27.3%	9.8%	0.54%

The large variations in the ages of the youngest children seems to indicate that the ages of the married women covered quite a wide range:

	19-	20-24	25-29	30-34	35-39	40-44	45 yrs.	Total
Frequency	2	29	51	40	41	16	19	(198)



Most of the married women who stated they were in favour of a change in abortion laws were between 25 and 39 years of age. Nevertheless it is interesting to observe that the younger married women, and especially the oldest of them (40-45) said they were in favour of such a change.

Ages of single women

Frequency	3	18	8	3	2	2	3	(39)
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Working women

- 37 married women (however, 13 did not indicate any personal or family income).
- 23 unmarried (16: no mention of income).

The salary range was as follows:

	0-\$3,999	\$4,000-7,999	\$8,000+	Total
Married .....	16	21		(37)
Single .....	7	14	2	(23)

Aggregate income of couple

Frequency	14	103	65	Total
				(182) <sup>a</sup>

Abortions

- 23 married women aggregated 44 abortions  
(X: 1.9 av./woman)
- 7 unmarried: 13 abortions

B—"For and Against" a change in the Act

The 21 married women in this group had an average of 2.9 children.

Age of the youngest:

1 d.-2 years	2½-5 years	6-13 years
6	10	5

<sup>a</sup> 13: no mention of income; 2: unemployed; 1: needy mother.

*Age of women (frequency)*

	20-24	25-29	30-34	35-39	40-44	45+	Total
Married .....	4	6	5	5		1	(21)
Unmarried .....		2		1		1	(4)

*Working women*

2 married women: (\$2,600) (\$700)  
 1 single woman<sup>4</sup> (5,800)

*Overall income of couple*

Frequency	0-\$3,999	\$4,000-7,999	\$8,000	Total
Abortions	1	17	3	(21)
	—1 married woman (1 abortion)			
	—1 unmarried woman (1 abortion)			

*C—"Against" any change in the Act*

The 33 married women in this group had an average of 3.46 children (excluding one with 11 children; one with 16 children).

*Age of youngest:*

1 d.-2 years	2½-5 years	6-12	13-19
6	12	14	1

*Ages of women (frequency)*

	19-	20-24	25-29	30-34	35-39	40-44	45+	Total
Married		6	3	8	7	2	7	(33)
Unmarried	2	1	2	1		1		(7)

*Married women who were represented the most*

- 20-24 years (young)
- 30-34 years (average age)
- 45+ (mature)

*Working women*

4 single women<sup>5</sup> (\$1560.-\$4420.)  
 1 married woman<sup>6</sup> (\$1000)

*Overall income of couple (6, no indication)*

0-\$3999	\$4000-\$7999	\$8000	Total
3	18	6	(27)

*Abortions*

—2 married women (2 abortions)  
 —1 single woman (1 abortion)

<sup>4</sup> 3 single women did not mention their income.

<sup>5</sup> 3 unmarried women did not indicate their income.

<sup>6</sup> 6 married women did not indicate their income.

II—Opinions towards a change in Abortion Act<sup>7</sup>

A—"For" a change in the Act

Even though 78% of the women<sup>8</sup> who replied to this questionnaire stated that they were in favour of a change in the Abortion Act all down the line, the measure of their approval differed according to the reason invoked:

For (permission of) abortion where:

	%
Health of mother is threatened .....	93.5
Health of unborn child is threatened .....	92.1
Unmarried mother .....	57.2
Rape or incest .....	97.3
Time unpropitious for having child .....	43.6

50% of these women said yes to all the indications

(About) one out of two women objected to an abortion in the case (a) of an unmarried mother (b) where the time was unpropitious for having a child

(About nine out of ten women were in favour of it where the health of the child or the mother was threatened

(Nearly) ten out of ten women aproved of it in the case of rape or incest

• Opinions of married and single women:

For abortion where:

	Married %	Single %
Health of mother threatened .....	96	85
Health of unborn child threatened .....	94	83
Unmarried mother .....	83	66
Rape or incest .....	95	100
Time unsuited for having a child .....	61	57
All indications .....	52	41

—the married women were more liberal-minded where the health of mother or child was at stake (these reasons were stronger when related to the family)

—single women were more liberal-minded in the case of an unmarried mother (reasons more strongly related to their situation)

—both groups were in agreement in cases of rape or incest and where it was a question of being an unsuitable time to have a child.

—More married than single women were in favour of abortion for the five indications specified.

• Opinions of married women in favour of a change in the law, while keeping those in mind who had already had recourse to an abortion (22w.) in comparison with the others.

	Abortions (22 w.) %	No Abortions (176 w.) %
Mother's health threatened .....	100	96
Unborn child's health threatened .....	100	94
Unmarried mother .....	66	86.8
Rape or incest .....	91.3	95
Time unsuitable for having a child .....	86.8	61

<sup>7</sup> For this part, unfortunately, we did not have time to check the differences noted in statistical tests.

<sup>8</sup> Not including the 27 who were both for and against.

—A larger number of the married women who already had had recourse to abortion<sup>9</sup> was in favour of abortion where the mother was unmarried and where the time was unsuitable for having a child (financial reasons, etc.). It may therefore be concluded that it was principally in those two circumstances that they had had abortions.

—Married women who had had abortions held opinions in respect of unmarried mothers in about the same proportion as did single women (86.8%—83%).

• Opinions of married women who were wholly or partially, favourable to a change in abortions laws: 198 “for”, 21 “for and against”.

	For (198) %	For and against (21) %
Mother's health threatened .....	96	77
Unborn child's health threatened .....	94	62
Unmarried mother .....	66	5
Rape or incest .....	95	67
Time unsuitable for having a child .....	52	—

For each of the reasons invoked the rate of acceptance by the “For” group was greater than that of the “For-Against” group.

Differences between these two groups were especially noticeable in the cases of:

- the unmarried mother
- time unsuitable for having a child
- none of the “for-against” group was in favour of abortion for all five

indications; one out of two of the group was “for”.

Opinions of married and single women in terms of income:

Married: 182 (13: no mention)<sup>10</sup>

Single: 23 (16: no mention)

\$0- \$3999.		Unmarried Mother	Time Unsuitable
Married		64.3 %	85.8 %
Single		(not enough cases)	
\$4000-\$7999.			
Married		65.1 %	63.1 %
Single		75 %	66.7
\$8000.-+			
Married		66.2	56.9
Single		(Not enough cases)	
\$0- \$3999		All indications	
Married		51.4	
Single		(Not enough cases)	
\$4000-\$7999			
Married		54.3	
Single		75 %	
\$8000.-+			
Married		41.7 %	
Single		(Not enough cases)	

<sup>9</sup> No details can be given here as to when they were single or otherwise.  
<sup>10</sup> and 1 needy mother 2 unemployed.

(Married)—no difference in terms of income levels as regards an unmarried mother.  
—women in low income brackets were more favourable towards an abortion with respect to the unsuitable time for having a child  
\$0-\$3999. > \$4000-\$7999. > \$8000.—+  
—a larger number of women in low and middle economics brackets were favourable as regards all indications.  
Inside the (\$4000-\$7999) income bracket:

(Single)  
(Married)—Single women were more in favour of abortions for unmarried mothers than for married women.  
—three out of four single women were in favour of abortion for the five indications listed above.  
—one out of two married women

• Favourable opinions of married women taking the working woman into account

	Unmarried Mother	Time Unsuitable
\$0—\$3999.		
Working (37) <sup>11</sup>	50 %	43.8 %
Not working (151)	58.3 %	83.3 %
\$4000.—\$7999.		
Working	57.2 %	47.6
Not working	69.1 %	64 %
\$8000.—+		
Working	(no case)	
Not working	78.6 %	69.9 69.9 %
	All indications	
\$0—\$3999.		
Working	31.2 %	
Not working	58.3 %	
	All indications	
\$4000.—\$7999.		
Working	33.3 %	
Not working	52.6	
\$8000.—+		
Working	(no case)	
Not working	52.4	

(Working women)  
—Differences in their income did not bring about any difference in the proportion of their acceptance

(Women not working)  
—More women in the low economic level were favourable to abortion in cases “where the time was unsuitable to have a child”  
—Women at the upper economic level were favourable, more than any, towards abortion in the case of the unmarried mother.  
—Women at a lower economic level were least in favour of it.

(Work others)  
—Women who were not working seemed more ready to accept  
—all the indications  
—these indications: unmarried mother and time unsuitable as regards a couple.

<sup>11</sup>13 not specified.

B—"For and against" a change in the abortion laws<sup>12</sup>

● Opinions of married women

	For %
Mother's health threatened .....	77
Unborn child's health threatened .....	62
Unmarried mother .....	5
Rape or incest .....	67
Time unsuitable for having a child .....	5
	Against %
Religious motives .....	38
Consequences for the mother .....	28.5
Respect for life .....	76.1
Nationalism .....	7

- Three out of four women were against any change in the abortion laws because of respect for life.
- more than one out of three women because of religious motives
- one out of four for fear of the consequences to the woman
- the criterion, danger of reducing the proportion of French Canadians, seemed to indicate little strength as an objection.

C—"Against" any change in the abortion laws

- 33 married women
- 7 single women

● Opinions of married and single women

	Married (33)	Single (7)
Religious motives .....	36.4%	57.1%
Consequences for the mother .....	48.8%	
Respect for life .....	84.8%	100%
Nationalism .....	9.1%	

- It is impossible to draw any conclusions from the differences shown by the two groups as there were too few single women.

Opinions of married women who were wholly or partially unfavourable towards any change in the abortion laws.

- 33 "Against"
- 21 "For and Against"

	Against %	For and Against %
Religious motives .....	36.4	38
Consequences to the mother .....	48.8	28.5
Respect for life .....	84.8	76.1
Nationalism .....	9.1	7

- There was no difference between these two groups as far as religious motives or national survival was concerned;
- the difference in the proportions as regards respect for life has probably no value statistically.
- the difference was very marked as regards fear of consequences to the mother;
  - the women in the against group were more fearful than those in the for and against group.

<sup>12</sup> Because of their fewness (4) no account will be taken, in this group, of single women.

- Opinions of married women wholly or partially unfavourable to a change in the laws when income was taken into account

Against	\$0—\$3999	\$4000—\$7999 (18 cases)	\$8000+	Total (27) <sup>13</sup>
For and against	(not enough cases)	(17 cases)	(not enough cases)	(21)
	Religious motives	Consequences to the mother	Respect for life	Nationalism
Against	38.9%	50%	88.9%	5.5%
For and against	35.3%	35.3%	88.2%	17.6%

—When income was taken into account (in this case the middle income group, it was interesting to note that differences in proportions were no longer observable between the two groups studied where it was a case of respect for life.

—here the difference was less marked in the case of fear of consequences to the mother, and slightly more marked as regards the danger of diminishing the proportion of French Canadians (those in the “For and Against” group having been more concerned about this danger).

III—Comparison between the investigations:  
Photo-Journal    Good Housekeeping

A—Good Housekeeping

1967 investigation among the 1000 members<sup>14</sup> of Good Housekeeping Consumer Panel, concerning their attitudes towards a change in American laws.

• Results

- 72.3% were in favour of a change in the law
- 22.5% were against
- 5.2% did not reply

Specific circumstances

1. Where the mother’s health was threatened by the pregnancy

Yes	84.1%
No	12.5%
No reply	3.4%

2. Rape or incest

Yes	85.9%
No	12.3%
No reply	1.8%

3. Where the child’s health was seriously threatened

Yes	78.5%
No	17.7%
No reply	3.8%

4. Where the woman considered that the family income was too low to absorb the cost of another child

Yes	14.6%
No	78.8%
No reply	6.6%

5. Unmarried mother

Yes	15.5%
No	77.3%
No reply	7.2%

6. Where the woman was married and did not want any more children

Yes	11.1%
No	81.5%
No reply	7.4%

B—Comparisons between the two investigations

1. Taking into account the 314 women who answered Photo-Journal’s questionnaire, leaving aside their civil status:

	Photo-Journal %	Good House-keeping %
Mother’s health threatened	80.2	84.1
Unborn child’s health threatened	78.3	78.5
Unmarried mother	56.4	15.5
Rape or incest	82.2	85.9
Unsuitable time <sup>15</sup>	50.3	14.6

—considerable differences were observable where abortion law changes in favour of unmarried mothers, time unsuitable for

<sup>13</sup> 6: income not indicated.

<sup>14</sup> It may be considered that these members were women, especially married women.

<sup>15</sup> The questions here compared were: Photo-Journal: Husband and wife find the time unsuitable for having a child (question of money, etc.) Good Housekeeping: (4) The wife feels the family income to be too low.

having a child (financial reasons, etc.), were involved.

The reason for these differences may have been the civil status of those who replied. It was thought that most *Good Housekeeping* readers were married women (without, however, being able to check this). Their replies are here compared with those submitted by the 314 women in the *Photo-Journal* survey, 50 of whom were single and 12 others (widows, separated, etc.)

2. If account be taken only of the 252 married women (*Photo-Journal*)

	Photo- Journal %	Good House- keeping %
Mother's health threatened	81.3	84.1
Unborn child's health threatened	79	78.5
Unmarried mother	52.8	15.5
Rape or incest	80.1	85.9
Unsuitable time	48.8	14.6

—it is seen that there was very little change in the proportions.

3. If account be taken only of single persons (*Photo-Journal*)

	Photo- Journal %	Good House- keeping %
Mother's health threatened	86	84.1
Unborn child's health threatened	84	78.5
Unmarried mother	80	15.5
Rape or incest	96	85.9
Unsuitable time	58	14.6

—the difference was still greater in the case of the "unsuitable time for having a child", and especially in the case of the unmarried mother.

—a difference is observable here (not previously seen) in the matter of rape and incest: single persons were more favourable towards abortion in those circumstances.

Generally speaking it may be concluded from this comparison that the majority of the women readers of *Photo-Journal*, mainly Quebecers, advocate a greater liberalizing of the abortion laws than do the women readers of *Good Housekeeping*, the majority of whom are Americans.

### SCHEDULE III

#### FAMILY PLANNING CENTRE

Through the financial co-operation of the Department of Family and Social Welfare there was born, in May, 1967, the Family Planning Centre, a joint initiative of the directors of Montreal social agencies and of several other organizations. Located at 3415 St. Urbain Street in Montreal, the Centre is for the whole Province.

The Centre was started for a very specific purpose: to find an adequate solution to the problems arising from family planning in our Province, especially as regards all families against which discrimination exists. The areas in which the Centre is trying to bring its influence to bear are the following:

##### I—*Training:*

A training program has been inaugurated for social agency staffs in the province; the members of the various staffs may elect from among seven 20-hour courses offered on various aspects of family planning. The courses will be given over a 2-year period, in Montreal first of all, and then in some dozen regional centres so that the whole province may be covered. Besides the general training offered the Centre also hopes to train specialists in family planning who will be qualified to assist those agency workers regularly engaged in that field to offer better services.

The training, which is primarily centred around social workers and social aids, is also being offered to other persons working with the public: priests, physicians, psychologists, etc. The Centre has already had to organize many sessions for various groups, for the most part with the financial co-operation of the Department of Education (*Permanent Education Service*).

##### II—*Research:*

The Centre is personally planning to do research concerning the social aspects of family planning, or to assist various

agencies in undertaking such research; for that purpose the Centre has a sociologist on its team who is devoting his efforts thereto.

##### III—*Resources:*

The Centre seeks to establish adequate resources in connection with family planning throughout the Province. Its methods for accomplishing its purposes are by bringing pressure to bear in that regard or by providing a consultation service for those anxious to form themselves into an organization in relation thereto; the Centre is also trying to facilitate co-ordination of the various efforts being made in the area of family planning, uniting the organizations which are working in that field.

##### IV—*Information Service:*

The Centre has begun setting up a library which, as it expands will be able to offer a complete range of works on the various aspects of family planning. A mail lending service will shortly be established which will enable all persons interested in learning more in this field such as physicians, benevolent societies, social workers, to consult the volumes available.

At this writing the Centre has only three employees (a female social worker, a sociologist and a physician who is also a specialist in community organizing), but the team will possibly be enlarged and have a staff of eight or nine persons.

Financing the Centre has been made possible because of a grant from the Department of Family and Social Welfare.

The Family Planning Centre is therefore a very young organization. Nevertheless it is not lacking in dynamism and should provide a new orientation in family planning in our province.

## SCHEDULE IV

ATTITUDE OF A FEW MEMBER BODIES OF THE ADVISORY COMMITTEE OF THE CENTRE  
REGARDING THE LAW ON ABORTION

1) *Social Welfare Department of the City of Montreal:*

January 23, 1968

Mr. Serge Mongeau, M.D., M.A.,  
Director,  
Family Planning Centre,  
3415 rue St-Urbain,  
Montreal 18.

Dear Sir,

After examining the brief on abortion submitted by your committee, I wish first of all to congratulate you on the quality of the content and presentation of this document. Through abundant material, you objectively illustrate for us all facets of the problem and point out the advantages and drawbacks of the various solutions.

As a member body of the advisory committee of your Centre, I submit the following comments for your consideration.

We favour abortion solely in the following cases:

1. where there is certain and grave risk to the life of the mother;
2. where there is irrefutable evidence of serious foetal abnormalities, e.g., mongolism;
3. in cases of rape;
4. in cases of incest, we favour abortion solely in cases of adolescents less than eighteen (18) years of age and in cases of mentally handicapped persons where there has been a breach of trust.

As to the other reasons put forward, that is, risk to the physical or mental health of the mother, risk of suicide, possibilities of foetal abnormalities, we are of the opinion that the right to life for the child being primordial, we have no right to intervene.

The existing situation in the so-called liberal countries in matters of abortion also reinforces our conviction. In the United States, where the law permits only therapeutic abortion, there are reports that: "Doctors not only accept a rather wide interpretation of the law, but transgress the law in no uncertain

terms. Moreover, there is a disparity between the number of abortions performed from one hospital to another".

In other countries, abortion is even granted for no reason: in Hungary, the woman may give as her reason the desire not to have any more children and, accordingly, in 30 per cent to 32.7 per cent of the cases, abortion is granted after three days of consideration. Of 26,000 Russian women, a third simply did not wish to continue their pregnancy. From 1950 to 1959, therefore, 16 per cent of the women had more than one abortion per year. Finally, in Japan, in order to curb the number of abortions, the cost of abortions was raised.

An over-liberalization of the law may lead to abuses. For example in the countries of Eastern Europe, as you mention, there is one abortion for every two births and in Hungary, in 1964, the rate of abortions was 40 per cent greater than that of live births.

For this reason, because the right to life of the child is sacred and because of possible abuses in interpretation, we believe it would be preferable to limit abortion to the cases we have already mentioned.

In the chapter on social reasons, your brief mentions an ideal committee which exists in Sweden and which limits acceptance of such cases to 3 per cent. The fact that only Sweden has succeeded in providing herself with a committee of such high calibre leaves us perplexed as to how to obtain a committee of this standing.

In agreement with your committee, we feel that the principal solution resides more in prevention and we favour the measures you outline. Accordingly, it would prove necessary to take steps to educate our people in sex, teach the most effective means of birth control while respecting the conscience and freedom of the individual, and assuring that all social classes have access to these various means. Finally, when we speak of family planning, we must also emphasize the principle of responsible and generous parenthood; otherwise, it would no longer be a question of family planning, but simply of birth control.

In Canada, the danger of a population explosion does not exist. Therefore, comparisons with overpopulated countries may not always be taken into account.

Certainly, there is a danger of a drop in the standard of living should the family become too numerous, but it would not be proper to establish a cause and effect relationship between a large number of children and a low standard of living. Should we opt for popular education, it would be more appropriate to promote a system of values whereby responsible parenthood would be linked with generosity in procreation.

We are in agreement with all the suggestions which would give the government a new role in adopting measures such that society would be more and more receptive to a child, whether it wanted it or not. The government should financially assist large families and couples burdened by the birth of abnormal children; to this end it should create adequate community resources.

In the case of illegal abortions, only the abortionist should be liable to legal punishment so that if complications arise, the patient would not hesitate to seek treatment in a hospital. In addition, pressures should not be exerted upon the patient to reveal the name of the person who presided over the abortion.

Regarding sterilization, we are of the opinion that the matter has too many implications for us to give our definite point of view.

We assure you of our entire co-operation and remain,

Yours truly,  
ANDRÉ COURNOYER,  
Director.

Printed 29.01.68

2) *L'Institut de Sexologie et d'Études Familiales*

February 13, 1968

Family Planning Centre,  
3415 rue St-Urbain,  
Montreal 18, Que.

Attention: Dr. Serge Mongeau, M.D.

Dear Sir,

The Board of Directors of the ISEF, on whose behalf I am writing, submit the follow-

ing few remarks concerning the brief on abortion prepared by your organization.

We wish to emphasize three (3) points which particularly attracted our attention.

Certainly we were able to appreciate the statistical information contained in the brief in question. On the other hand, we guard against a too ready adaptation of such data, and the conclusions which naturally flow from such statistics, as a scale which must, or even could, be used in the Canadian social context. We submit that each country presents distinct social characteristics which do not lend themselves to ready comparison.

The second point which we feel wise to emphasize concerns the premature and hasty nature of new legislation on abortion. We feel it dangerous, in a particularly puritanical and ignorant milieu devoid of any healthy attitude towards sex, for *corrective* legislation to be substituted for *preventive* legislation (education, birth control, etc.). We submit that such legislation, at this stage, would meet fictitious and fallacious needs (correction of irresponsible acts). We therefore advocate in preference effective measures and resources directed towards sex education and integration.

Lastly, may we suggest that the woman undergoing the abortion no longer be considered as a part or accomplice in the criminal act which abortion is termed today. Such a law, somewhat distasteful it must be admitted, would facilitate precise statistics regarding illegal abortions (and therefore criminal), as the victim would not have to fear punishment in the name of justice. Such a law could be introduced for a period of two (2) years during which a complete study of the Canadian situation could be completed in respect to this matter. During the same period, an attempt could be made to set up a programme of sex education and, for married couples, family planning where called for.

These, Sir, are the few observations we wished to make.

I trust you will find this entirely satisfactory.

Yours truly,  
André Perreault,  
Secretary General.

Printed, 14.02.68

## APPENDIX "VV"

## CENTRE DE LIAISON DES ÉQUIPES SERÉNA

9271—16<sup>e</sup> Avenue, Apt. 5  
Montreal 38, Quebec.  
February 9, 1968.

Dr. Harry C. Harley, M.P.,  
Chairman of the House of Commons  
Committee on Health and Welfare,  
OTTAWA, Ontario.

Dear Sir:

As a member of the advisory committee of the Centre de planification familiale de Montréal, the Centre de Liaison des Équipes Seréna (birth regulation groups) would like to express its views on the brief which will be presented to you on February 15th by the Centre de planification familiale.

We would draw your attention to the first paragraph of the conclusions, namely the need for intensive study, before reaching any hasty decisions, on the complexity of abortion under all its facets, the consequences of any position taken and the range of solutions which can be found for problems caused by difficult pregnancies.

Contrary to what is expressed in the brief, we consider the foetus to be an individual and a developing human being, not a purely

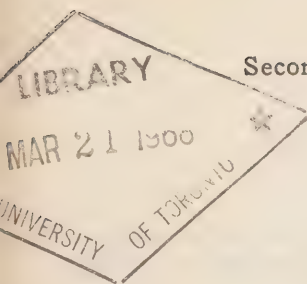
potential being. Consequently we do not accept the removal of the foetus, except in the case where seemingly the mother would die if the pregnancy continued. In all other cases it would seem to us unwise to leave to decisions where arbitrariness could creep in, the responsibility for choosing between the life of the foetus and the well-being of the mother. This is why we recommend clarification of the Criminal Code and are opposed to adding grounds for abortion.

We support, however, the recommendations for social measures directed toward reducing the desire for abortion, knowing that their implementation is not dependent for the most part on the bodies responsible for reviewing the legislation.

We would hope that this letter will appear in the minutes of the Committee on Health and Welfare as an appendix to the brief presented by the Centre de planification familiale.

Yours sincerely,

Le Couple-président,  
Le Centre de Liaison des  
Équipes Seréna  
Marie-Paule et Raymond Doyle.



HOUSE OF COMMONS

Second Session—Twenty-seventh Parliament

1967-68

(27)

STANDING COMMITTEE

ON

**HEALTH AND WELFARE**

*Chairman:* Mr. HARRY C. HARLEY

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 22

TUESDAY, FEBRUARY 20, 1968

Respecting the subject-matters of

Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

WITNESSES:

*Representing The Canadian Labour Congress:* Miss Huguette Plamondon of Montreal, Regional Vice-President; Mr. Denis Coupland, Assistant Director, Legislation Department; Mrs. Grace Hartman, Secretary-Treasurer, Canadian Union of Public Employees; Mrs. Ruth Marlyn, Research Associate, all of Ottawa; Miss Iona Samis, of Toronto, Federal Secretary, United Packinghouse Workers of America.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1968

STANDING COMMITTEE  
ON  
HEALTH AND WELFARE  
*Chairman:* Mr. Harry C. Harley  
*Vice-Chairman:* Mr. Gaston Isabelle  
and

Mr. Ballard	Mr. Howe ( <i>Wellington-</i>	Mr. O'Keefe
Mr. Brand	<i>Huron</i> )	Mr. Orange
Mr. Brown	Mr. Knowles	Mr. Rochon
Mr. Cameron ( <i>High Park</i> )	Mr. Laverdière	Mr. Rock
Mr. Chatterton	Mr. MacDonald ( <i>Prince</i> )	Mr. Rynard
Mr. Cowan	Mrs. MacInnis ( <i>Vancouver-Kingsway</i> )	Mr. Simard
Mr. Enns	Mr. Matte	Mr. Stanbury—(24).
Mr. Forrestall		

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

*Note:* Mr. O'Keefe replaced Mrs. Rideout on February 19.

ORDER OF REFERENCE

MONDAY, February 19, 1968.

*Ordered*,—That the name of Mr. O'Keefe be substituted for that of Mrs. Rideout on the Standing Committee on Health and Welfare.

Attest.

ALISTAIR FRASER,  
*The Clerk of the House of Commons.*



## MINUTES OF PROCEEDINGS

TUESDAY, February 20, 1968.

(25)

The Standing Committee on Health and Welfare met this day at 11.30 o'clock a.m. The Chairman, Mr. Harry C. Harley, presided.

*Members present:* Mrs. MacInnis, Messrs. Allmand, Enns, Forrestall, Harley, Isabelle, Knowles, Matte, O'Keefe, Orange, Rochon.

*Other member present:* Mr. Choquette.

*In attendance: Representing The Canadian Labour Congress:* Miss Huquette Plamondon of Montreal, Regional Vice-President; Mr. Denis Coupland, Assistant Director, Legislation Department; Mrs. Grace Hartman, Secretary-Treasurer, Canadian Union of Public Employees; Mrs. Ruth Marlyn, Research Associate, all of Ottawa; Miss Iona Samis of Toronto, Federal Secretary, United Packinghouse Workers of America.

The Committee resumed consideration of the subject-matter of Bills C-122, C-123 and C-136.

The Chairman introduced Miss Plamondon who, in turn, introduced the other delegates of the Congress and read the brief into the record.

The witnesses were questioned.

The questioning concluded, the Chairman thanked the delegates of the Canadian Labour Congress for their presentation and at 1.12 o'clock p.m., the Committee adjourned to 11.00 o'clock a.m. Thursday, February 23, 1968.

Gabrielle Savard,  
*Clerk of the Committee.*



## EVIDENCE

(Recorded by Electronic Apparatus)

**Tuesday, February 20, 1968**

• 1131

**The Chairman:** Ladies and gentlemen, we are pleased to have the Canadian Labour Congress with us today. We are very chagrined there is such a small turnout this morning but apropos last night's procedures in the House I think there is some question in Committee Members' minds whether the meeting is actually on or off. I think we should proceed with the meeting so that today's witnesses can be heard and questioned and so that their evidence can be put before the Committee and the public. I notice that the press are here.

There is no correspondence or any matter that I want to bring to the Committee's attention at this time, so I will begin by introducing Miss Huguette Plamondon, the Regional Vice-President of the Canadian Labour Congress and ask her to introduce the delegation and read the brief of the Canadian Labour Congress. Miss Plamondon?

**Miss Huguette Plamondon (Regional Vice-President, Canadian Labour Congress):** Mr. Chairman and members of the Committee, to my right is Mr. Denis Coupland, Assistant Director, Legislation Department, Canadian Labour Congress; Miss Iona Samis, Federal Secretary of the United Packinghouse Food and Allied Workers of America; Mrs. Grace Hartman, Secretary-Treasurer, Canadian Union of Public Employees and Mrs. Ruth Marlyn, Research Associate, Canadian Labour Congress.

Mr. Chairman and members of the Committee, I would first like to apologize because we cannot produce the French text today, but we can assure you that by the middle of next week, or at the latest, by the end of next week, you should have it in your hands.

The Canadian Labour Congress greatly appreciates the opportunity to appear before you today, particularly in view of our late request for such an appearance.

The Congress is a nation-wide organization with an affiliated membership of 1½ million. We might add that at least one in five of

these are women. Our organization has no artificial discriminatory barriers and consequently our membership encompasses people of many religious persuasions and varying social backgrounds.

As such, we do not appear before you as advocates of any one distinct moral code as opposed to any other. However, we cannot deny that a pressing social problem does exist and we felt that we must take this opportunity to express our concern.

• 1135

There has been much conflicting evidence before your Committee as to the number of illegal abortions which do occur in Canada each year but we do not think that anybody would dispute the fact that large numbers do take place and furthermore that the vast majority of these, even if performed by abortionists who have attained some skill in the practice, do constitute a grave risk of disease or death due to unsanitary conditions and lack of medical attention if complications do develop. There are countless others who subject themselves to attempted abortion either through self-inducing the process or with the co-operation of friends without any real knowledge of the dangers and complications involved. Although it may not be possible to obtain reliable statistics, we do not doubt that there are many women who meet death or permanent injury as a result of these illegal operations in Canada each year.

The Government has seen fit to introduce amendments with regard to abortion in its Bill C-195. As the amendments stand, they do little more than clarify the present situation in law. Without a doubt this will increase some doctors' willingness to undertake therapeutic abortions once their legal position has been made clear. But this will not make any significant change in the existing abortion situation.

The amendments state that an abortion may be performed after the therapeutic abortion committee of an accredited hospital "has by certificate in writing stated that in its opinion the continuation of the pregnancy of

such female person would or would be likely to endanger her life or health..." If the question of endangering of health were to be decided on solely medical grounds we believe that this provision would have a discriminatory effect, basically on economic grounds. We feel that those in the higher income levels would have a far greater chance of obtaining approval for an abortion from a therapeutic abortion committee due to their access to gynecological and psychiatric specialists than someone in the lower income brackets whose medical attention may be confined mainly to clinical visits. We do not imagine that any medical plan, be it a government or private plan, would undertake the payment of a psychiatrist's fee for a woman whose abortion application had failed.

If the grounds for application were widened, either by interpretation of the present wording or by the addition of explanatory phraseology, to allow the abortion committee to take into account socio-economic factors in the woman's environment, this would still pose problems for those in the lower income brackets. Those for whom the economic factors might be paramount, women with several previous children or unmarried women, may not reasonably be expected to formulate an adequate case on their own behalf. What provisions can be made to ensure that they obtain adequate counselling in the presentation of the real facts of their cases? Even if some method of payment could be found, we hesitate to suggest that the legal fraternity should become involved in these matters.

The problems mentioned above might be overcome and clarification of the law on therapeutic abortions would be some improvement. However, we do not think it will do much to solve the plight of the vast majority of those who find themselves in situations which presently result in illegal abortion. Illegal abortions, with all their connotations of danger to the mother and the unborn child, will still continue. And here again, we believe that economic factors will play a large part in the fate of the individual.

Those with adequate means may travel to locations where abortions are legal or, if it is possible to have an illegal abortion performed by an accredited physician, they will be able to afford this service. Those with economic problems, and we believe that this must be a paramount factor in the instance of the large numbers of women with several previous

children who seek abortion, will still have to seek out the back-street abortionist or attempt to abort themselves. It is not enough to say that they seek these alternatives of their own free will and must be prepared to face the consequences. Society has to face the fact that illegal abortions do take place and that the consequences can be disastrous for the woman involved.

Our only conclusion is that abortion must be made available legally upon the sole request of the woman as the only practical method of ending much suffering, injury and disease which presses most upon those of limited economic means.

#### • 1140

It must be noted that we are not advocating that the practice of abortion should become a necessarily socially desirable practice or that anyone should in any way be compelled to participate in it contrary to their personal or religious convictions. We do not think that legalizing abortion will ever make the decision an easy one. But these decisions are being made despite the illegality and the danger and the only thing that can be done to correct the situation is to legalize it. The decision to terminate a pregnancy can only be left up to the individual conscience.

We realize in asking that abortion be made available at the sole request of the mother that some will feel that no consideration is being given to the rights of others, the rights of the unborn child and the rights of the father. With respect to the first, we can only state that, contrary to those who feel that once conception has taken place the foetus has an inalienable right to continue its existence, others may have the conviction that a woman should have the right to control all her bodily functions, including the right to decide whether or not to carry a pregnancy to completion. We repeat, it is a matter of individual conscience.

With regard to the second, we believe that in any good relationship prior discussion would take place and an agreement arrived at before any woman would attempt to procure an abortion. If the relationship is such that such a consensus does not exist, we can only suggest that the decision-making power has to be left with the woman. She is the one who bears the risks of pregnancy and in our society is the one primarily responsible for the care and attention of the child and best knows the

resources, in terms of time, love and finances, available for the rearing of a child.

We do not intend to enter the involved discussions bearing theological, legal and medical overtones, concerning what time limit if any should be placed on the period when abortion may be made available to a woman. Some may feel that it should be limited to the first twelve weeks when the procuring of an abortion by dilatation and curettage is a relatively simple procedure, others that it should not be made available after the fifth month when the fetus may be regarded as a viable entity given proper medical attention ex utero and others who feel that it should be made available at any time up till the normal time of delivery. If your Committee should adopt our suggestion that legal abortion be made more readily available, you will undoubtedly have to wrestle with this problem. However, you have already had an abundance of expert testimony in all these fields presented to you to which we could contribute little further.

As we stated at the outset, our Congress feels concern for the social problem raised by the present abortion situation. We trust that in your deliberations you will not be moved solely by the highly subjective views which generally surround this question but rather that you will objectively attempt to find a solution to end much human suffering and exposure to grave risks of injury or death.

**The Chairman:** Thank you very much, Miss Plamondon. The meeting is open for questioning. Mr. O'Keefe?

**Mr. O'Keefe:** Mr. Chairman, this is for Mr. Coupland. If you do not mind, Mr. Chairman, I will address my question to the gentlemen at the head of the table. I hesitate to question the ladies.

This brief begins:

The Canadian Labour Congress greatly appreciates the opportunity to appear before you today.

So you represent the Canadian Labour Congress.

**Mr. Denis Coupland (Assistant Director, Legislation Department, Canadian Labour Congress):** Yes, this is a policy matter that was decided by our Executive Council last week.

**Mr. O'Keefe:** You have an affiliated membership of 1.5 million?

**Mr. Coupland:** That is right.

**Mr. O'Keefe:** That is a really hefty group.

**Mr. Coupland:** Actually I believe Mademoiselle Plamondon can answer this better. She was at that meeting.

**Mr. O'Keefe:** How many of that 1.5 million were at the meeting that adopted this brief?

**Miss Plamondon:** Well, first of all, I want to say that even at conventions we do not get our 1.5 million all together. In a democracy, power has to be delegated. We are delegated powers and between conventions the Executive Council is empowered to decide the policy of the Congress. It happened that we discussed it—and it was not a small party, there are 20 men and one woman on the Executive Council—very thoroughly and very seriously, and we asked them to be unanimous and ask this Standing Committee to receive us so that we would have a chance to express our views.

• 1145

**Mr. O'Keefe:** In other words, you are really representing only 20 men and one woman.

**Miss Plamondon:** No, our Council represents the 1.5 million just like the members of Parliament represent this country; you do not have all the population sit whenever you decide something. There is a slight difference there.

**Mr. O'Keefe:** How many of that 1.5 million were given an opportunity to comment on this brief, to agree with it or to disagree?

**Miss Plamondon:** Well, we would not even have the room to get them together. Powers are delegated to the local unions and they discussed it at their meetings. They had very strong feelings about it, and we feel stronger, because we asked them to represent the lower income group of society, the people who need it most, and this is the reason it was discussed at each local meeting. They had a chance to have their views expressed. Normally we would not have been here because of that commission on the status of women, but we felt that expressing it there would be too late, and that is why we decided the Congress had to take a stand immediately on it.

**Mr. O'Keefe:** How many of the lower echelons of your organization met, discussed and decided the content of this brief?

**Miss Plamondon:** They did not have to discuss the content; we discussed the principle with them.

**Mr. O'Keefe:** The issue?

**Miss Plamondon:** Yes.

**Mr. O'Keefe:** How many meetings were held besides this one that you mentioned in this particular connection?

**Miss Plamondon:** I would have to consult all the affiliates of the Congress and I think we have about 135. I would have to make a survey to satisfy you.

**Mr. O'Keefe:** Can you tell me whether any one of that 135 discussed this and decided?

**Miss Plamondon:** Yes, I happen to represent the Packinghouse Workers and I can tell you it was discussed at union meetings. They certainly felt the need for it and I represent a union where the biggest percentage of members is not women. They happen to be men, but yet they see the need, perhaps for their wives.

**Mr. O'Keefe:** For abortion on request? The point I am trying to make and I am sure, Mr. Chairman, you will understand is that 1.5 million Canadians are a lot of people, a lot of Canadians, and I find it very difficult to believe, despite your protestations, that all those 1.5 million agree with abortion on request. That is the point of my question.

**Miss Plamondon:** I never stated that 1.5 million agree. We asked them to represent the people; it is just like legislation. You pass a law, and sometime I disagree with it, but the House of Commons has decided so I have to abide by it. Very seldom do you pass a law that is unanimous, and I say to you that our membership had a chance to express its views, and it is because of those views that we were forced to take a stand perhaps earlier and faster than we thought necessary.

**Mr. O'Keefe:** Well, I am still not satisfied, Mr. Chairman, that even a consensus was taken from this 1.5 million and so far, unless you can tell me something else, I cannot be convinced that even a consensus has been arrived at.

**Miss Iona Samis (Federal Secretary, United Packinghouse Workers of America):** May I add something, Mr. Chairman? I am a Vice-President of the Ontario Federation of Labour which represents a fair percentage of that 1.5

million, and last year we held a women delegates conference at which several subjects relative to the status of women came up, including this one. The conference was attended by over 100 women and they discussed this subject thoroughly. Certainly they are a group well representative of a good portion of the 1.5 million.

**Mr. O'Keefe:** And did that 100 women decide it was all right to ask for abortion on request, or promote this idea?

**Miss Samis:** Yes.

**Mr. O'Keefe:** The whole hundred?

**Miss Samis:** We did not take an actual vote. The majority certainly was in favour of it. I would not say the whole hundred would vote in favour of it, but the large majority did.

**Mr. O'Keefe:** The majority of the one hundred actually voted for abortion on request?

• 1150

**Miss Samis:** Yes.

**Mr. O'Keefe:** That was put before a meeting?

**Miss Samis:** Yes.

**Mr. O'Keefe:** Still, even a majority of 100 is a far cry from a majority of 1.5 million, Mr. Chairman.

You, of course, suggest that abortion upon request should be the law of Canada. You talk of concern for others. What concern have you for the rights of unborn children?

**Miss Plamondon:** I am not a theologian and I am not a lawyer; as you know I am a labour representative. We know that we have problems that are faced by the lower income group of society, and we know it is a fact; it is going on all the time. For example, if a doctor would do it, no worker could afford it. We feel that a woman should have the unique right, the sole right, over her bodily functions. We have to respect a person's dignity, and I think any woman should be the sole judge and should be the one who has the final say. It is up to her conscience. I am not attempting to interfere with any religion, but I think each and every one of us has to live with their own conscience.

**Mr. O'Keefe:** Yes, but do you not see you are interfering with the life and the rights of a human being? I at least consider an unborn

baby to be a human being. It seems to me that you are very obviously interfering with the actual right to life of that unborn child. Do you not agree with that?

**Miss Plamondon:** Those are your views, but it does not necessarily mean that because you have...

**Mr. O'Keefe:** I am asking for your views.

**Miss Plamondon:** But they are not mine and I do not share them. If somebody feels that way surely they will have no recourse to the abortion law; they do not have to have an abortion. For example, the fact that you have liquor stores does not mean you have to buy liquor if you do not like it. The fact that you are happily married does not mean you have to go and get a divorce because there is a divorce law.

**Mr. O'Keefe:** That is true, but the fact that prostitution and fornication takes place does not mean we have to make it legal.

**Miss Plamondon:** I am sorry, I did not hear your last remark.

**Mr. O'Keefe:** I said the fact that prostitution and fornication takes place quite evidently is no reason why we should make it legal.

**Miss Plamondon:** I think it would be much better if we were to legalize it. In this way we would avoid a lot of sickness. I know countries where it is legalized and I believe this to be preferable.

**Mr. O'Keefe:** Then according to that theory we should abolish the entire criminal law. Do you not honestly think, though, that instead of grabbing at this in what I consider the easy way, we should be striving instead for the better way? I cannot believe that any woman really would want to kill a baby. That I cannot believe. I feel that you are pushing that fact to the back of your mind. Do you not think that as legislators we represent not only the people who are alive and living outside the womb in Canada today, but the unborn children of our constituents, and do you not think we have some responsibility to those unborn children?

**Mr. Coupland:** Mr. O'Keefe, may I reply to that? It appears to me that you are using phrases which have a high emotional content. You use the phrase "to kill a baby".

**Mr. O'Keefe:** What else is it?

**Mr. Coupland:** As you very well know, a variety of views have been expressed before this Committee and we feel this is a matter which the individual himself should decide.

**Mr. O'Keefe:** If it does not kill a baby what does it kill?

**Mr. Coupland:** There have been expressions used such as an embryo, a foetus...

**Mr. O'Keefe:** What about your opinion? You represent a million and a half people; you are the ones whose opinions we want to get. We have had the opinions of others, I agree.

**Mr. Coupland:** As the brief points out, it is the Canadian Labour Congress which is appearing here, not a group of individuals, and we take no stand on the basis of an individual moral code. We feel this is a matter that should be left to the individual to decide. Therefore, it would not be in keeping with our brief to speak as an individual.

**Mr. O'Keefe:** You are either speaking as an individual or as a representative of a million and a half people. Which is it?

**Mr. Coupland:** The latter.

**Mr. O'Keefe:** Mr. Chairman, I could continue but I think I had better pass.

**Mr. Enns:** Mr. Chairman, I was interested in the question Mr. O'Keefe pursued—not that I doubt the fact that you are giving a representative brief, but I would be interested to know how you could in fact work up a representative brief. Do I understand from the witnesses that this is not a question that was hastily discussed in the last week or so but that it has been on the agenda of meetings over the past year? Is this correct?

**Miss Plamondon:** I can tell you that this has been discussed with the membership of different unions, but I will speak for my own union, if I may. The Canadian Labour Congress is a central labour body that acts in a legislative field, but each union has its own economy and we act independently. Some people, you know, may not agree with us, but the vast majority of the people felt it was a "must" and that we should do something about it. I can safely and honestly say—perhaps I do not need to say "honestly"—but I can safely say that we discussed it with our members. We are in daily contact with the workers.

• 1155

**Mr. Enns:** I just wanted to be assured of that.

**Miss Plamondon:** I want to tell you that we have discussed this subject at our meetings. There are some workers whose wives have problems and who feel they have been exploited and taken for a ride. If you live in Vancouver you can go to Chatham for an abortion. It is a different locale and it is cheaper. In any event, you get a good trip out of it. If you live in eastern Canada—Quebec or Ontario—you can go to Switzerland or to another country and you can get an abortion there. You get both the trip and the abortion. But if you want to have it done here it is very expensive because the doctor takes a big risk. It is a criminal offence. He can have his licence suspended. It is not an easy decision for him to make.

**Mr. Enns:** I am not disputing the reasons nor do I want specific figures, I merely wanted assurance that this was not something that you sat down to work on with preconceived thoughts and views. I wonder if there is some way of measuring the extent to which these views would find support in the Canadian Labour Congress? I want to accept your assertion that you are speaking representatively, but has there been any plebiscite or any more formal way of getting the consensus of the views on this question of abortion?

**Mr. Coupland:** This has not been done formally. During the course of a year we present briefs on many subjects. We try to present what we think is the prevailing feeling within our organization. Quite often we obtain these views from personal interviews with members and sometimes this comes in the form of resolutions from labour councils or unions, but we have not formally put this question to our membership.

**Mr. Enns:** One of the big challenges to leadership in this modern age is to be adequately informed. As Committee members we are seeking to be adequately informed on this question. I was surprised to read about the extent to which people go to Sweden, for example, and how they are being helped there. I was startled by the statistics which enumerated that over 900 people had applied and only seven were actually accepted. This is quite different from the popular norm, and I can produce this evidence at a later date.

I want to ask another question, though. Do you believe if your view or your position—abortion on demand—were in fact accepted that this would really reduce or abolish criminal abortion?

**Miss Plamondon:** I sincerely believe so. I think it would at least give the woman the opportunity to have an abortion. I would like to point out one thing. We are not saying that a woman has to have an abortion, but if she needs it...

**Mr. Enns:** Yes.

**Miss Plamondon:** ...for psychological reasons or any others, she should be able to have it. I strongly believe this would reduce the number tremendously. The woman would get the best care and the fee would not be as high. There would be no reason for her to go to a back alley to see one of the butchers if her doctor could perform it in a normal way in a good hospital. It is a minor operation, especially in the first three months. Dr. Isabelle will tell you, I am sure, it is a minor operation at that stage. Later on it may be a little bit complicated. I am not a doctor, but those statements were made by doctors who happen to be members of the same party to which I belong. I think in a society like ours, this is a "must". We really have to look at it on that basis to protect the people.

**Mr. Enns:** This brings us to the same question we have asked of different witnesses in dealing with the matter of being adequately informed. We have found, for example, from different sources that in fact the illegal abortion practice does not disappear in countries where liberalized abortion laws are in effect. I am asking you to help us. For example, at present it is possible for a woman to get a therapeutic abortion—let us say that according to the recommendations in the Criminal Code amendments suggested by the Minister of Justice it would be possible for reasons of health, and I suppose even rape and incest could also be included—and yet if you were to ask those persons who make use of or go to an illegal abortionist they would tell you that in 50 or even 80 per cent of the cases they do so not because of a health factor in the mother, not because of rape and not because of incest, but because of a socially or economically desirable reason—whatever adjective you want to give it. These cases would not fit any of the conditions set out in the proposed amendments and, therefore, illegal abortions would likely continue.

**Mr. Coupland:** I think you have expressed the intent of our brief very well. Judging the experience of other countries, we feel that simply widening the grounds on the basis of therapeutic abortions or in cases of incest, rape and so on, would not eliminate illegal abortions. We feel the only way we can put a stop to this situation, which causes grave problems for many people is to legalize all abortions when they are requested.

• 1200

**Mr. Enns:** I just have one further question. Are you moving to the point of view where in your opinion there would be no legislation at all? Is this somewhat similar to prohibition where you could say, "We tried to prohibit it and it did not work; let us therefore not have any laws at all"?

**Mr. Coupland:** That would be basically our position. We do not feel there should be any more legislation for abortions than there is for any other medical practice.

**Mr. Enns:** Thank you.

**The Chairman:** Mr. Allmand?

**Mr. Allmand:** I just want to ask some more questions on the point brought up by Mr. O'Keefe and Mr. Enns. Do you have annual congresses in the CLC? I believe you do.

**Mr. Coupland:** Biennial.

**Mr. Allmand:** Was the question of abortion ever on the agenda at any of these conferences?

**Miss Plamondon:** I do not think so.

**Mr. Coupland:** There is probably an obvious reason for that. This is a subject that was not discussed as widely as it is at present. It has not been considered in as much detail by a parliamentary committee before.

**Mr. Allmand:** When was your last conference?

**Mr. Coupland:** The last one was in 1966, in March of that year.

**Miss Plamondon:** We are due to have another convention in May of this year.

**Mr. Allmand:** Will your proposals on abortion be put to that conference?

**Mr. Coupland:** Actually they will not have to be put for approval by the convention. This is decided policy as it has been passed by our Executive Council.

**Mr. Enns:** How will the membership know that you submitted this brief?

**Miss Plamondon:** It will be given to them. It will be mailed to each and every one. Once we have the translation done in the two official languages each Local will get a copy of the brief that we have submitted here. We do not want to hide it. We take representative views of our people. It is important that you realize that.

**Mr. Allmand:** Yes, but does this biennial conference have a chance to discuss it and to ratify it, democratically?

**Mr. Coupland:** They could ask that this question be looked at again; if any Local so wished they could submit a resolution. But we do not present an amalgam of briefs that we have prepared over the course of a two-period to the convention saying, do you approve of the action we have already taken? If some particular Local wants to raise the issue, they may do so.

**Mr. Allmand:** If they wanted to raise the issue, they could.

**Mr. Coupland:** Absolutely.

**Mr. Knowles:** Would it not be in your executive council report which gets the approval of the convention?

**Mr. Coupland:** That is true.

**Mr. Allmand:** What would be in the report, merely a statement that you gave a brief on abortion?

**Mr. Coupland:** That a brief has been presented and there might be a few sentences describing the basic principles in the brief.

**Mr. Allmand:** What I think is important is not so much that you have submitted a brief on abortion but the position you have taken on abortion. There are many positions; you can well understand that. I do not think I have any other questions for the time being.

**The Chairman:** Mrs. MacInnis?

**Mrs. MacInnis (Vancouver-Kingsway):** On the point of the validity of this brief, is it not true that if you did not represent the majority of the congress they could deal quickly with you at the next convention?

**Miss Plamondon:** I imagine that would be the normal democratic process. Most likely the next convention will be a good guideline to

indicate whether we represented them adequately or whether we went against their wishes.

**Mrs. MacInnis (Vancouver-Kingsway):** Is it not true that if you were not too sure you represented public opinion on a subject like this you would not have brought in this kind of brief?

**Miss Plamondon:** I agree with you, because by nature I am not a gambler.

**Mrs. MacInnis (Vancouver-Kingsway):** May I also ask whether it is not true that an Executive Committee of twenty men to one woman again indicates overwhelming support of your brief, because men are usually less inclined than women to want this change? Is that true?

**Miss Plamondon:** Except, Mrs. MacInnis, that most of them are married and I think they must also realize they have had problems at times and have had to cope with them. You have to understand one thing; the Regional Vice-Presidents of the Canadian Labour Congress usually are people in this field that are in close contact with the workers on a daily basis.

• 1205

When it comes to the executive officers of this Congress it may be different because it is a national office and they may be farther away from the workers than we are. But I can assure you that the views expressed in this brief are firm; if we have to make a change in our position it will be a minor one. I can tell you that it does represent the views of the workers.

**Mrs. MacInnis (Vancouver-Kingsway):** Well, I just wanted to bring this out because having belonged to democratic organizations I know that very seldom do they go counter to the majority on an important issue, because they know what will happen to them at the next convention.

**Miss Plamondon:** When you talk about democracy there is no such thing as half liberty. Again I insist that we give women freedom; they are mature and equal to men and should have the right to decide what they feel is right. We may be wrong in doing so, but they will not make that many mistakes. I think they are mature enough to know what should be done.

**Mrs. MacInnis (Vancouver-Kingsway):** Do you regard abortion as a substitute for birth control?

**Miss Plamondon:** No, on the contrary. I feel we have to have more education on birth control. We will have to make the pill, if I may say so, available to more people. But you have to realize that you cannot make one mistake with the pill; if you skip one day it can change the whole thing and you are late.

This might happen when you already have two or three children; it is hard for you to budget with three and you may feel that you cannot afford a fourth child in that year. You may be able to afford another child two years later, but at least it will give a woman in that position the opportunity of a clear mind. You know how important it is for a child to be born in surroundings where he is wanted.

**Mrs. MacInnis (Vancouver-Kingsway):** Well, we have had witnesses before this Committee that have indicated if we had better housing, better counselling, better social conditions and better knowledge of birth control and contraceptives there would not be any need for changes in our existing abortion law. Do you agree with that?

**Miss Plamondon:** No, I disagree. It would reduce the number of abortions tremendously but we may still need it and I feel that it should be there. If it is not necessary no woman with common sense will go for an abortion because after all her health is at stake and she will approach this very cautiously. But, mind you, no government has seen fit to put into practice the conditions you mentioned.

**Mrs. MacInnis (Vancouver-Kingsway):** You would not agree with the member who suggested earlier that abortion is the easy way and instead we should have the hard way of self control and birth control?

**Miss Plamondon:** There is no such thing as an easy way, I can assure you. No woman considers that easy because it is a big decision for her to make.

**Mr. O'Keefe:** Mr. Chairman, I said "better way".

**Mrs. MacInnis (Vancouver-Kingsway):** I am sorry; I accept the correction. Now, let me ask you this: When you talk about the cost of abortion, do you think we could have permissive abortion, as you are recommending, without a universal medicare scheme to cover

these costs for women? If women could get abortion on demand, how are the working women going to pay for it? How is that aspect going to be handled? Can they afford it?

**Mr. Coupland:** It would be difficult without medicare but still it is a relatively simple operation as I understand it and, presumably, also it would be relatively cheap if it were legal. If somebody were faced with this problem probably she could manage to raise the necessary money. But it is not desirable this way, perhaps. As you know, our stand is that there should be universal medicare.

**Miss Plamondon:** May I add something, Mrs. MacInnis?

**Mrs. MacInnis (Vancouver-Kingsway):** Yes.

**Miss Plamondon:** Let us say that a woman has a miscarriage. Most welfare plans make an allowance according to the fees set by the College of Physicians. In the Province of Quebec I think they are allowed about \$67.50. When you have a miscarriage about the same thing takes place, so I would say that at least it would be a fee that most workers could afford.

This is not official, but if you have an abortion performed in Montreal it will cost \$600.00; in Ottawa it is \$750.00. These are not official figures but if you are really looking for it and if you have that kind of money you can likely find somebody to do it.

**Mrs. MacInnis (Vancouver-Kingsway):** In other words, you think that legalizing abortion would bring down the cost. Do you think women are being exploited financially by illegal abortionists?

• 1210

**Miss Plamondon:** They are being exploited by the illegal ones, the ones that will charge you that kind of money most likely will be doctors who can do it properly.

**Mrs. MacInnis (Vancouver-Kingsway):** So that you think that legalizing it would bring down the cost.

**Miss Plamondon:** The College of Physicians would not ask for \$600 or anything like that, because it is the equivalent of performing the same operation as in the case of a woman who has a normal miscarriage.

**Mr. Coupland:** You mean they already have it on their fee schedule.

**The Chairman:** Exactly. I think you will find that medical therapeutic abortion is a listed medical practice and as such has a listed fee. I think in the Province of British Columbia it is \$85.00. I cannot quote the Ontario fee, but I can get the figure for you if you wish. I have a schedule of fees.

**Mrs. MacInnis (Vancouver-Kingsway):** That obviously would be a great improvement.

**Miss Plamondon:** Yes.

**Mrs. MacInnis (Vancouver-Kingsway):** You are recommending, at least you are saying, that socio-economic grounds are really the main grounds on which women would need to have abortions. Is that right?

**Miss Plamondon:** To me this is the ground that is the most important.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, that is what I mean. You think that we should pass legislation that would make it possible for a woman to get an abortion because of the general circumstances of her family.

**Miss Plamondon:** If she so desires; for example, if she happens to be a bachelor woman. Our society has not yet accepted—I have to be very careful about the word I was going to use—the children who are not born from a married couple. They are still identified in a different way. This society of ours has not done much about this. We are not suggesting in any way, shape or form, that a person be forced into it, but that if she wishes it, it should be made available to her under normal conditions.

**Mrs. MacInnis (Vancouver-Kingsway):** We have now discussed the advantages to the woman concerned; it is cheaper, and it is certainly a lot better from her economic standpoint and from different angles. What advantages do you see to society if we made abortion permissible on demand? Would it be advantageous to society and if so, how?

**Mr. Coupland:** There was evidence given before this Committee of a study which I believe was done in Sweden or Switzerland concerning a number of illegitimate children. These cases were studied and it was found that there was a much greater incidence of psychiatric help needed; there were problems with juvenile delinquency and so on. I think there are problems where you have unwanted children, and that this would alleviate some of these problems.

**Mrs. MacInnis (Vancouver-Kingsway):** In other words you think that it is the right of any child to be wanted.

**Mr. Coupland:** I think that is one way of putting it; yes.

**Miss Plamondon:** In addition, I think we have enough children in the creches who are not adopted by anybody. All the well-intentioned people do not go there and grab those children. A lot of them remain there and produce, very often—not all the time as there are exceptions to the rule—a generation of delinquents. I think this is serious, and let us face it; not all children are wanted. When a woman becomes pregnant it is not always because she wanted a child. You know that that happens; it is a fact and it is there, but I think it is important to recognize that her state of mind during pregnancy has an effect on the future of the child that may be born, and that once the child is born he has to be surrounded with love. This is important. If this child is not wanted, the woman has a chip on her shoulder, the child is a nuisance, and this has an effect on that child. I think this is a very serious thing.

**Mrs. MacInnis (Vancouver-Kingsway):** But we are told by a good many witnesses that once the woman becomes committed and resigned to the idea of having a child, mother love will come along at the right time and she will be glad she had it and would be very sorry if she had had an abortion.

**Miss Plamondon:** I will tell you one thing, Mrs. MacInnis. Everybody says that in her state of pregnancy for nine months a woman's state of mind is such that she is all "épanouie" and relaxed. If I could speak to the Creator I would say to Him: "Let us trade and have the men enjoy the good things in life. It is about time that they started enjoying it." And then I am sure we would not be sitting here discussing this problem. But it is too bad that I cannot talk to the Creator and make that trade, because I want men to enjoy the good things in life and this seems to be so wonderful that I would like them to have it. Unfortunately I cannot do it.

**Mrs. MacInnis (Vancouver-Kingsway):** May I ask just one last question. How does it happen that an organization like yours and an executive council like yours that outnumber the women 20 to 1—I do not mean it does that in the Congress—are in favour of women getting abortion on demand?

• 1215

**Miss Plamondon:** I would say it is because they are concerned with the welfare of—I would call them the underprivileged—the lower income group. We know they are the ones who are faced with such a problem. We do not want to keep on having generations of water carriers. We want to have a good generation; we want to have healthy children; we want to have children who will have a chance to go to university. Look at the big families; it is not the rich who have them; it is always the poor people because they never had a break in life; and we think the best way to help them is by making it available if they seek it. They do not have to. If a person is a Catholic and feels very strongly about her religion, and does not want it, she will not use it. When you are a Catholic it is not by choice; you were not consulted at the time that you entered the Church. But you have to live with your conscience. The Catholic Church has evolved tremendously in the past, especially with the Ecumenical Council, and eventually there will be an agreement with us. It is just that maybe we are a little ahead of them; that is all.

**Mrs. MacInnis (Vancouver-Kingsway):** Thank you very much.

[Translation]

**The Chairman:** Mr. Matte, you have the floor.

**Mr. Matte:** I shall speak French.

**Miss Plamondon:** That is fine.

**Mr. Matte:** You said that the woman is the only master of her body, just as man can be also master of his. However, you have no right to cut off your own hand. But are you not saying that the fetus is separate from the mother, or if you prefer, from the woman; it is another being; it is different from the woman; it is not her own body.

**Miss Plamondon:** Unfortunately, you see we probably do not agree on this and I do not think we will ever agree. This is my feeling: even if it is another body, it is the woman who must decide whether she wants to go on with this or not. First of all you have physicians who do not agree among themselves; theologians too. But I am not a theologian: I am just a union representative. Say, for instance that tomorrow you decide to castrate yourself, I would never think of interfering with your rights. However, if tomorrow I

become pregnant and for reasons that are my business, psychologically speaking, instead of committing suicide, I might prefer to avoid it, because the first life I have to save is my own.

What astounds me in 1968 is to see politicians worrying about saving the woman who is pregnant and not allowed to have an abortion. Why was no one worried, for instance, about the death penalty, when in 1967 we were still discussing the possibility of abolishing it. It is strange to see that nobody was worrying about this, although it involved living human beings. Nobody worried about it, politicians did not care.

Now we are talking about allowing a human being, a woman, to decide whether or not she will go to a doctor to have an abortion. Then suddenly everybody worries, when you do not even know whether this human being will live or will come to term. I am sorry, but I cannot agree with this.

**Mr. Matte:** I understand you do not agree with it. We two cannot agree on this point. You are for abortion for the sake of abortion?

**Miss Plamondon:** No, I said it had to be legalized, so that if a person, a human being, wishes to go to a physician and say, "I am two months pregnant. I do not have the courage to have a baby. I do not feel strong enough". It may even be for psychological reasons; the problem is often more psychological than physical. I think that this person should have the right to go to see the doctor, have the best medical care under normal conditions.

• 1220

**Mr. Matte:** We still are not in agreement, but, just the same, I think the government has to preserve the principle of life just as it does life itself.

**Miss Plamondon:** You see, we will never agree on this. I say there may be other lives at stake, but the woman has to think about herself too. And if she is going to make another child unhappy, she will not even have the courage to save her own life. This often happens.

**Mr. Matte:** This may happen, but once is not enough to be the rule.

**Miss Plamondon:** No.

**Mr. Matte:** The exception cannot become the rule.

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**Miss Plamondon:** No, no, you cannot make generalizations. We are not suggesting that all women should have abortions. First of all, as you know, this is not a decision that all women will make. What we are saying is that it should be available to them, because I think it is extremely important and these decisions are not made very lightly, even if it is women who make them. I think women today are mature enough to make such decisions.

**Mr. Matte:** I understand, but I do not think we will agree, because I think that abortion is, in fact, murder.

**Miss Plamondon:** Yes, but it happens all the time. You have thousands of people who go to butchers, you have women who are completely ruined physically for the rest of their lives, while it would be so normal to go to a doctor and tell him, "Well, I want an abortion".

**Mr. Matte:** I understand. But just because everybody steals, we are not going to legalize robbery!

**Miss Plamondon:** We are not talking about robbery here.

**Mr. Matte:** No, but...

**Miss Plamondon:** We are talking about making something possible because human lives are being lost.

**Mr. Matte:** Some are being saved too.

**Miss Plamondon:** Yes. All we are saying is that abortion should be available to a woman but she would not be forced to use it. I have heard men tell their wives: "Well, I am sorry, you cannot have another child, we can't afford it." And the wife says: "I cannot have one." Then, if she wants to go on with the pregnancy, it is up to her to make the decision. The couple must decide together. The decision to have an abortion or continue the pregnancy should never be forced on her. I feel that she is the only one who can decide a thing like this, after discussion with her husband. If happily married couples cannot discuss these things freely like normal people, like adults, they are not far from divorce. If married people cannot agree on that, they will not agree on anything else. Divorce will not be far away.

**Mr. Matte:** Yes, but it depends. Sometimes children can prevent a divorce. The fact that

you have children may prevent you from having a divorce.

**Miss Plamondon:** Yes, but what I am saying is that when on a point like this a couple do not agree or cannot agree you know they are on the verge of collapse. They will not live together very long after that, I think. So if there is no law on abortion this child will be another of society's unfortunates. That is what we want to avoid. If a child is born in such an atmosphere, this is unacceptable.

**Mr. Matte:** I do not agree with you there.

**Mr. Isabelle:** To go on with what Mr. Matte was saying, happy couples have no history. First I want to congratulate Miss Plamondon for having explained with such vigour her plea for the changes in abortion legislation. I know she represents a union which is extremely important in size as well as in quality. In reading your brief, however, I cannot help wondering if you consulted doctors when you prepared it?

• 1225

**Miss Plamondon:** No, not at the time of the presentation because you know that doctors do not agree themselves so we decided that we would not mix everything up even farther. We decided to remain with the human aspect. I might point out that as a member of the NDP which includes doctors as well, I did discuss it with them and I can assure you that these doctors are from the province of Quebec and that they agreed with me completely. For instance, when there was no Liquor Commission, who was exploited? Where does prohibition lead? It is always the same group of society which is exploited. I do not care about rich people because they can always manage but it is always the poor who suffer.

**Mr. Isabelle:** Well, let us not be too emotional here.

**Miss Plamondon:** That is not what I am doing either, I can assure you.

**Mr. Isabelle:** I am asking you this question, because if no doctors were consulted, how can you talk about medicine without doctors? It seems unusual. It is as if I presented a brief on plumbing, something I know nothing about. There is a definition of health which is universally acknowledged and which was given by the World Health Organization. It is very clear when you say in your brief that if abortion...

**Miss Plamondon:** Where do you mean? Can you tell me the page please?

[English]

**Mr. Isabelle:** It is on page 2:

If the question of endangering of health were to be decided on solely medical grounds we believe that this provision would have a discriminatory effect, basically on economic grounds.

[Translation]

Here you come back to the definition of health which is a whole. Health means physical and mental health and socio-economic conditions. That is what health is. It is not the absence of anything. Sometimes you say that somebody who is mentally ill is healthy. Why, because he is walking and his heart is beating. But he is not healthy because health is an entity. If you speak of discrimination for reasons of health, I agree. I do not agree with you when you say that social and economic conditions can intervene. Health is a whole and that is my point here. That is why I was wondering if you had consulted a doctor, because if a doctor does not know what health is, it is time for him to retire!

**Miss Plamondon:** Dr. Isabelle, I would like to just make one comment here about health. For instance, if the only way a doctor can perform an abortion is for health reasons, i.e. when the woman's health is in danger, it would be very difficult, you know, and would not reduce the number of illegal abortions. That is why we repeat that once again the people in the low income brackets will have to bear the whole burden of this. In fact, it is not always for health reasons that a woman can't accept her pregnancy, even if people always say that it is the normal function of women to have children. In most cases women can probably manage. But that is not the only thing to be considered because you will never settle the problem with the present legislation. It will not settle the problem of illegal abortions in back alleys by butchers even if they are representatives of the butchers' union. You know that is not the role of a butcher.

**Mr. Isabelle:** We cannot agree on that. With a law like the one that we will have to accept we have two choices—to accept severe legislation or legislation which is completely flexible like the British law. It is national suicide in our opinion but we do not have to agree on the same points. That will not reduce the

number of illegal abortions. It might have a psychological effect but do you not feel that any legislation at all will reduce the number of illegal abortions in Canada?

Also, there is another question that I would like to mention. You say that:

[English]

We do not imagine that any medical plan, be it a government or private plan, would undertake the payment of a psychiatrist's fee for a woman whose abortion application had failed.

[Translation]

You know how hospitals function. They have committees and committees are mandatory in certain hospitals here consultations must take place, free of charge. If those committees often have to face certain situations and have to make a decision—there are exceptions I know, but there is not question as to whether a patient is rich or poor and must go to the public wards. There are not distinctions any more, in Quebec at least. There is a basic plan for everyone. So this meant that on the committees in the United States, four abortions out of five were for rich people. But the question was asked the other day, and we want to offer a service, as you say, for the whole population. When abortion has to take place it should be done in proper conditions and with the best medical care possible, at the expense of those doing it. There is no question of fees. We have not discussed that here.

• 1230

[English]

**Mr. Coupland:** It is not solely a question of fees. It is a question of accessibility. Presumably somebody applying to a therapeutic abortion committee, unless they can afford to pay for the services of specialists to present their case, will have to present it themselves. We think a woman in this position may not be her own best counsel. We think she should have expert guidance if she is to appear before a committee of this sort and if she thinks there is any possibility the committee may not accept her application. Only by the provision of full specialist services to these people could you have a therapeutic abortion committee functioning in a way which would make it universal. However, I do not think that our society is prepared to undertake this very expensive operation of providing every-

body with the services of consultants, of people to prepare their cases. Therefore, those who can afford specialists will appear before the Committee with them. The vast majority of people will have to appear by themselves and will therefore have less chance of having their applications accepted.

[Translation]

**Mr. Isabelle:** Are you not aware that lawyers in certain provinces have funds to provide legal services free of charge to those who cannot pay?

**Miss Plamondon:** Dr. Isabelle, that is purely utopian.

**Mr. Isabelle:** I ask whether this is true.

[English]

**Mr. Coupland:** If I had the option of appearing in court with a lawyer from the Legal Aid Society or of paying for one myself I would prefer to have the one I pay for.

[Translation]

**Miss Plamondon:** It is not every day that we have a Clarence Darrow, you know, who wants to defend right free of charge. He was convinced, for example, that his rights as a citizen were threatened. Maybe we do not like sin but we cannot detest the sinner, we must love him. You know that we do not have enough psychiatrists and their fees are extremely high, even for rich people.

**Mr. Isabelle:** Last year we had 50 times more psychiatrists graduate than ever before.

**Miss Plamondon:** They are always looking for psychiatrists at St-Jean de Dieu hospital. That is true. But it is also true that the law that you are suggesting does not solve the problems of the woman's condition, or her health. The problem is being alleviated to a very small extent, but the new law will apply in 20 per cent of the cases at the outside and the others will have to rely on butchers in back alleys, these so-called experts, and this is unfortunate, since their health is in danger much more than when the abortion is performed in normal conditions by a qualified doctor.

**Mr. Isabelle:** You want free abortion for everyone?

**Miss Plamondon:** I think that it is even more more important...

**Mr. Isabelle:** That is the reason why...

**Miss Plamondon:** I was reading the minutes the other day; I never saw lawyers being such poor witnesses. They do a better job of questioning others, but they are certainly bad when they have to testify. First of all, I think the law should be wider, completely without restrictions.

**Mr. Isabelle:** Completely.

**Miss Plamondon:** Yes, I think so.

**Mr. Isabelle:** As in Great Britain: completely. I agree.

**Miss Plamondon:** I do not know exactly what is going on there. I am speaking in order of priority. Secondly we do not have medicare yet but when we do have medicare, it will be accepted for everyone free of charge. Maybe our taxes will be higher but we will be playing our role in society. But meanwhile it should be considered like any other miscarriage, when it would be ridiculous to consult anyone but a good doctor who can carry out his work under normal conditions.

**Mr. Isabelle:** In other words, we are satisfied. But if we live in Utopia today it will be much worse in a few years.

**Miss Plamondon:** No, you say there are no differences. If we both go to the hospital, we are supposed to have been born equal but it is not true because if the son of a worker and the son of someone from Westmount are killed at the age of six, the insurance for the rich people will be higher because his chances of being an important member of society are much better.

**Mr. Isabelle:** I do not agree.

**Miss Plamondon:** Moreover, usually workers are very much impressed by professional people. They are very nervous when they go to a doctor, as you know.

**Mr. Isabelle:** Because they are from the working class.

**Mr. Matte:** Because most of them are from the poorer class.

**Miss Plamondon:** This is our point of view. We have tried to be as frank and as objective as possible, and I think this is all you can ask of us.

• 1235

**Mr. Isabelle:** I congratulated you for it, too.

**Miss Plamondon:** Thank you.

[English]

**Mr. Knowles:** Mr. Chairman, I suppose I might first say to Dr. Isabelle, and to you, sir, that if doctors wish to participate in the making of Canadian Labour Congress policy, it is very simple. All you have to do is ask that your union be affiliated with the CLC.

**Mr. Enns:** Perhaps Parliament should join a union, too; it is rather insecure at the moment.

**Mr. Knowles:** Knowing doctors as I do, I am sure that if they did affiliate with CLC at least one of them would become a member of the Canadian Council.

**Miss Plamondon:** Your views would become known; you can rest assured of that.

**Mr. Knowles:** Mr. Chairman, I would like to pursue a little further the question of the authority for this brief. Most of the members who have taken part have raised it. It is rather difficult for me to do it without admitting that I ought to know the answers to the questions I am about to ask, having been a member of the Executive Council for four years, from 1958 until 1962; but...

**The Chairman:** Any special significance to those years, Mr. Knowles?

**Mr. Knowles:** They were the years between two parliamentary crises. Here we are today right in the middle of another one.

It is a fact, is it not, Mlle Plamondon, that 21 people make up the Executive Council, of which you are one. The others are high-priced, professional help...

**Miss Plamondon:** We cannot afford high-priced professional help, unfortunately.

**Mr. Knowles:** They are not paid what they are worth.

**Miss Plamondon:** I agree.

**Mr. Knowles:** All 21 of you were elected at the last CLC convention in 1966, and you will all have to face the convention again in 1968 if you wish to be re-elected.

**Miss Plamondon:** There will only be 20 who will have to face it. One, unfortunately, as you know, Mr. Jodoin, is in hospital. When the vote was taken there were 20 left, composed of 19 men and one woman.

**Mr. Knowles:** And these 20—or the 21 when you were elected—are chosen in such a

way as to represent every section of the country. The constitution is set up so that there are some from British Columbia, some from the Prairies, some from Ontario, some from Quebec and some from the Atlantic provinces. Therefore, in that sense, you are a representative body of people.

Is it not also true that you are charged by the convention to represent during the two-year period, the point of view of the Canadian Labour Congress on issues that arise, and that you do this all the time?

**Miss Plamondon:** This is normal procedure. We cannot call a convention each time there is a problem that seems to be a little unpopular. We have undertaken our responsibilities, just as you do not call an election each time Members of Parliament have to take a decision.

**Mr. Knowles:** That is normally an appropriate comment. Today we do not know what it means.

Is it not also true that at the end of your two-year period of stewardship you make an Executive Council report to the convention on all the things that you have done; that this report is referred to a committee of the convention, which reports back to the convention; and if the convention does not like what you have done, it seems to me, if I recall correctly, the convention will say so.

• 1240

**Miss Plamondon:** That is the normal process. I could not have put it better. That is how it operates, and it is very democratic. For example the only time Parliament had a plebiscite was on conscription in 1939 or 1940, I think.

**Mr. Knowles:** In 1942

**Miss Plamondon:** Parliament does not go to the people each time it faces a controversial issue. It is the same with the Congress. It has to carry out its responsibilities. If we make a *faux pas* they will rap our knuckles at the next convention and throw us out. That is their privilege and their right. However, in the meantime, we have to undertake our responsibility and try to express on behalf of our membership representative views which we feel to be in their best interests; and this is what we have done.

**Mr. Knowles:** I hope the Committee is satisfied. Perhaps it is unnecessary for me to say that it is. I have been in the position of

appearing before committees of Parliament, and I certainly agree with the position that the Congress not only has to know what is the thinking of its people, but that in practice it does know, and keeps in pretty close touch.

I am interested in the substance of your brief. I gather that you feel that in the law as presented in Mr. Trudeau's proposals we have not taken socio-economic conditions sufficiently into consideration and that even to try to write those factors into a law still leaves people in the lower income brackets at a disadvantage? This is why you feel it should be the decision of the woman concerned?

**Miss Plamondon:** Yes. It should be available to that woman if she wants to use it.

**Mr. Knowles:** I noticed that either you or Denis Coupland remarked about the difficulty a woman would face with regard to consultants for the purpose of appearing before a committee or a board. Let me ask about another kind of consultation. Do you think under a law such as you would recommend that it would be desirable to have consultation available to women—psychiatric, social, or what have you—to help them make their decisions?

**Miss Plamondon:** I think it should be available and if she feels she wants to consult them she could do so, but I do not think she should be forced into that position because she has her dignity. It would not be an easy thing for her to do. Let us say that I am 21 and single—

**Mr. Knowles:** You are not—

**Miss Plamondon:** No, I am not any more.

**Mr. Knowles:** You are single, but you are not yet 21.

**Miss Plamondon:** The trouble is that you know the right figure. However, let us say, for example, that I am 21 and single. It would be nice, although it is not true, but let us assume that I am. I live with my family and if I ever were to tell them that unfortunately I am a human being and am pregnant, according to them I would have committed a sin. Possibly I would think differently, but I just could not afford to live with my family if something like that ever happened as I would be a burden on society. My father is 75 or 76, and you can imagine the reaction there would be. Even when he was 50 he would have never accepted the

fact. Therefore, I have to go to see a board and tell them, "Look, you know I am 21," and then they start. This reminds me of confession. I always resented confession. I think this is the same thing, and I think it is unacceptable because the woman's dignity is at stake at the time. I do not see how I could do it. Being an R.C. I hated, even as a child, when I was asked, "Tell me how you have sinned; what have you been doing?" I just felt frustrated, even at 10 years of age, when going to confession. I did not even know what "sinning" meant.

I think this would be reverting to exactly the same practice, in principle. We have to consider women to be adults—mature human beings—just as we would hope the men are. This is the reason I feel the legislation should be broader. I think abortion should be available to those who want it. We are not suggesting in any way, shape or form that people should have abortions performed. We are saying it should be accessible, so that if they seek to use it they will not be exploited and they can have it done under normal circumstances. It would save a lot of lives; existing lives, not potential ones. We would save a lot of human beings who are already in this world. This is important.

What are we doing about the people who are being killed in Viet Nam? What are we doing about all those things? We are not too concerned, but because a woman may decide she does not want a baby—God alone knows whether she will deliver the baby or something may happen even normally—she is denied that right. We do not know whether or not it will be a human being. I am not a doctor, but a number of doctors have so stated.

I say the law should be drafted in such a way that a woman would be free to go to see a doctor of her own free will. She should be the sole judge, she should be the only one to decide. Similarly, if she is married and her husband says, "You are going to have an abortion performed", she can reply, "I am not going to have an abortion; I am going to have my baby. I want to have a baby". She has the right to decide. She should not be forced into it nor should she be compelled to do without it. It should be her own decision as a citizen.

**Mr. O'Keefe:** What about the baby?

**Miss Plamondon:** The baby is another thing. I am not a theologian and I do not agree with your views on it. You have a right

to your views, but I disagree with them. However, women are the ones who are responsible for whether or not there will be another baby—another miserable human being in this world—and I know what the world can offer to those people. What have we done with the babies who are in creches? What do we do to help those poor babies?

**Mr. O'Keefe:** Why did you say, "a miserable human being"? You talk about unwanted babies; unwanted by whom?

**Miss Plamondon:** If we cannot afford to raise them—

**Mr. O'Keefe:** May I ask one more question?

**The Chairman:** Is Mr. Knowles finished?

• 1245

**Mr. Knowles:** Yes, it is difficult for me to ask any more questions when I agree so completely with what Miss Plamondon has been saying. I also enjoyed her earlier assurance that if she gets the chance she will make a few suggestions to the Creator to improve things around here.

**Miss Plamondon:** This is true, because I would like you men to enjoy it. It is supposed to be so wonderful. I cannot speak from experience, but you men have been saying it is the most wonderful thing that can happen in this world. If it is that wonderful I would like to talk to the Creator and tell him, "God, we are not selfish; we have nothing against men; we want them to enjoy the best things in life; let them have some babies."

**Mr. Knowles:** Do you think if two or three men—just two or three—found themselves pregnant when they did not want to be, that the law would be changed very quickly?

**Miss Plamondon:** Oh, no. I want more than two or three men to have babies. After all, if it is one of the good things in life I want more of them to enjoy it for a longer period than that.

**The Chairman:** Are you suggesting that Parliament arrange it?

[Translation]

**Mr. Knowles:** You are right.

[English]

**The Chairman:** We will come back to this later.

[Translation]

**Mr. Choquette:** Miss Plamondon, let me as a bachelor compliment you most warmly. I admire your self-possession and I also appreciate your courage because, knowing your religion, I think it is courageous for you to express views which certainly do not conform with the orthodoxy of our most holy Church. That is why I think you have great courage to take such strong stands. I agree with you that we must reject this murder theory, which after all plays on very childish emotionalism. This business about a fetus being destroyed, a little child being murdered is emotionalism. This is something we should certainly not bring forth at all in a discussion like this. Now as far as mutilation is concerned, this is a moral problem and—I wonder if Mr. Matte was not mentioning this a little while ago—I do not think that mutilation from the strictly moral point of view, even from the social point of view, is permissible. And if we were to consider the abortion you are advocating—on request, that is—I wonder if we would not be engaging ourselves on a path where there is a lot of confusion, where it would be hard to establish the difference between what is moral and not moral, because abortion can be mutilation and it should be prohibited as such, I think. I wonder if you would comment on this?

**Miss Plamondon:** Mr. Choquette, if it should happen that there were abuses, that mutilation was widespread, I think Parliament could always reconvene and study this legislation. You know, this happens often.

**Mr. Choquette:** What you want us to do is to vote as liberally as possible and then, if we realize that we have gone too far, we can come back. I do not think that it is a very good objective for Parliament...

**Miss Plamondon:** No. I say ask liberals to vote in a liberal way...

**Mr. Choquette:** "Liberal" in the sense of "liberalization of the legislation": the philosophical sense of the word. I understand that this word might seem a little hostile especially when at a caucus of the New Democratic Party but I am talking about the philosophic sense of the word liberal, not the partisan sense.

**Miss Plamondon:** Mr. Choquette, collectively, the masses do not make all that many mistakes. And I can assure you that the mass, the collectivity of women will have enough

maturity, even with this legislation. But today we have absolutely no control on what is going on during illegal abortions and this is happening all the time. The statistics are almost incredible. It is difficult to learn the statistics since it is illegal but we know that it is being done currently. Thus, the best way of avoiding illegalities is to make something legal and you know there is nothing people enjoy more than doing something illegal. Once it is legal, things often stabilize and become normal. So I think that if this legislation were to become more free, let us say...

**Mr. Choquette:** More broad.

**Miss Plamondon:** ... more accessible, then we would settle thousands of problems. I have confidence in the masses myself. Naturally, as individuals, people very often do make mistakes but collectively it is unthinkable. This has been proven by history.

**Mr. Choquette:** But you are going so far, saying that a girl can ask for a second and third abortion and well, if there is no limit here, if there is no restriction, you might as well say that you will also allow drunkenness. Why are there laws against drunkenness and drug addiction? Because it is a mutilation of the human being, which prevents him from accomplishing his social role.

**Miss Plamondon:** As I was telling your colleague—I forget his name—as I was telling him, if somebody has a happy marriage, he certainly will not go and ask for a divorce. He is not forced to do it even if the divorce law allows it. If you do not like to drink, the fact that you have liquor stores open regularly, does not force you to go and buy a bottle. You must have faith in the human being, particularly in today's world. What do you expect? There has been no education. In 1967, there are still young people. Nothing is available. What have we done as far as sexual education is concerned? It is taboo. No one will talk about it.

**Mr. Choquette:** That is what I wanted to point out, too. Without going as far as your conclusions, I feel that this is what we need, along with a campaign of sex education on television—on television, on radio, anywhere.

**Miss Plamondon:** But you know, Mr. Choquette...

**Mr. Choquette:** I agree with you...

**Miss Plamondon:** Just a minute. Once all this education is done, this legislation here

will not mean anything, but now it is necessary because nothing has been done. It is even more important now than ever before. If only for instance, we had played the role we could have played. It is all very well to talk about the girl who is going to have one, two, or three abortions. But when you look at the homes for children it is twice as painful. When we ask people to go and visit those children on Sunday, because nobody ever goes, all they see are the poor nurses who are under paid and whose attitude is often rather upsetting. I think it would be a preventive measure to broaden the law on abortion, to make it more available and it would be much better than to have the homes filled the way they are now.

**Mr. Choquette:** All right, let me give you one objection. You have these homes, perhaps there are too many children there but do not forget one thing, if you allow abortion to the extent you want, all a person will have to do is ask and they can have one. I tell you that this will bring on a social disorder. You cannot avoid this, but moreover there are people who cannot have children and you will deprive them of the advantage given them by the homes, because there are many people who are happy at least to see that for them there is a source of supply there. But if you broaden abortion—I do not know if the translation is adequate—but anyway if you close all the homes, there will be another social problem, because the people who cannot have children will not have any place to go for them. That is why the existence of the homes is not necessarily a disastrous situation or an evil because there are people who need children and if you legalize abortion in this way there will no longer be any homes, or hardly any.

**Miss Plamondon:** I do not want to lose my temper, Mr. Choquette. I am trying to be very kind and this is an effort on my part but I think this is a very childish argument. Listen a second! I am very sorry to see you take such an attitude. You are just more or less saying that we women lack maturity, because you are saying "If we give this to you you will not know how to use it." It is very serious for a woman to decide that she will have an abortion performed and it is doubly important when you think that it is usually incompetent people who are doing such things now. What we are suggesting and we sincerely believe it and again I emphasize, to those who are dubious, that this represents the viewpoint of the vast majority of the mem-

bers affiliated with the CLC. I will say one thing. Pass this legislation, provide some education and in 10 years you will not need the legislation and you will have played an important role in society.

**Mr. Choquette:** Let me ask you one question. Have you made a survey to find out how many women take their children to the homes? Don't you think that if they had had the opportunity of abortion, at least 95 per cent would have taken it and not brought their children to the homes?

• 1255

**Miss Plamondon:** They leave them in airports, Mr. Choquette, they leave them anywhere. They don't take them to the homes. Someone else has to do that.

**Mr. Choquette:** We have social welfare legislation too you know, in Quebec...

**Miss Plamondon:** And then for the poor children in the home there is the matter of religion. You have to decide whether a Catholic child can be adopted by a Protestant. And it is the child who suffers in the meantime. I am trying to express my own views. I am trying to be as objective as I can but really I think that the present legislation as proposed actually will not change anything in the situation; perhaps it will help 15 or 20 per cent—I am still being generous—and there will still be 80 per cent of the women who will live a nightmare and waste their whole lives because they have not been prevented from using something which is normal in a society. I think that you have to have confidence in women.

**Mr. Choquette:** I will ask you one question. Have you ever made an inquiry, a serious inquiry, to learn this about the children who are in homes: if the women had had the opportunity to get an abortion, would 95 per cent of them not have used this opportunity?

**Miss Plamondon:** Mr. Choquette, it is not easy to ask a woman... First of all you know that very few would tell you they had taken their children to a home. You know it is nearly always incognito...

**Mr. Choquette:** They take them because they have them there, in the hospital. At Notre-Dame hospital they have social services which take care of things like this. There is the Children's Aid, for example. You know that. I represent a rural riding and I can agree with you that education is necessary. It

should be done on a broad scale, on radio, on television and we should stop considering these facts as taboo. I agree; this is precisely why there are girls who go astray, because of this complex. But you know that if you brought in abortion the way you want to do, do you not think that all single girls will take advantage of it? So how can the homes remain full?

**Miss Plamondon:** Certainly some will use it. If there are so many people of good will why are they always asking for more? You know very well that in the papers you see the picture of a child in the paper and the paper asking if anybody will adopt this child. Why is this so, if there is a shortage? There is anything but a shortage.

**Mr. Choquette:** There is no shortage now, but with abortion, there will be.

**Miss Plamondon:** It might be a good thing to have a shortage. Society would be much better organized if there were.

**Mr. Choquette:** With abortion, you will have psychological, physical and mental troubles and then perhaps society will be disorganized. There are pros and cons. I am trying to find a happy medium. You are presenting a brief here which is not based on any serious study. It is not based on a sociological study.

**Miss Plamondon:** Bah! Every time you have a vote in the House I do not think that you are going to go and see each one of your constituents and ask them what they think about it. When you raise taxes, do you consult them—no. Be honest. You don't consult them. You vote and we are bound by the votes you take. I am being objective. Listen. After all, what you are saying is that we have no contact with our members. Apart from sitting on the executive council of the CLC I am in daily contact with the people who are working in factories, people who have problems, people who have families, people who cannot make ends meet, even with our collective agreements, which, even so, have helped improve their position. So all we ask is that you show some confidence in the human being. Collectively, I can tell you, they are not idiots. Collectively, they have good judgment, even if they have not yet elected the NDP. You should have confidence in the mass and I can guarantee that with this legislation, with good sex education, with the pill available free of charge, you know. . . What do you

expect, youth today is developing much more rapidly than in our day. You must take this into account and I can tell you that, within five years, if we play our role in society, no matter how broad this legislation is, it will no longer have any importance because we will have educated people. And when we have a mass of educated people, life will be much more difficult for you politicians then.

**Mr. Choquette:** True. So let us start with education, then let us make the law more liberal later. But I certainly do not agree with passing this law as you suggested before starting sex education. It is impossible.

**Miss Plamondon:** Then we will still fill the homes, we will have illegal abortions, we will have butchery.

**Mr. Choquette:** In any case I believe that we should first of all launch a sex education campaign and then afterwards we shall see. You know very well that it would be irrational for a Parliament like ours to adopt the legislation you propose because there will be all kinds of disorders, precisely because there is no sex education just now.

**Miss Plamondon:** Perhaps politically it is not profitable for certain politicians. . .

**Mr. Choquette:** It is not a question of being profitable. . .

**Miss Plamondon:** But I am talking about the human being's point of view and his protection in society. I am talking about human beings who need protection. I am talking about something I know, and which could concern me. I think that abortion should be made available.

**Mr. Choquette:** The way you talk—excuse me, Doctor, Miss Plamondon—but the way you talk would suggest that we are not in any contact with the people. I can tell you that we are much more in contact with the people in a rural riding with its poor areas, than you in Montreal.

**Miss Plamondon:** You think so?

**Mr. Choquette:** Yes.

**Miss Plamondon:** I wish I could believe that.

**Mr. Choquette:** Well, then, come in my riding and you will see the crucial human problems we have. You will see that I am in contact with the poor and suffering.

• 1300

**Miss Plamondon:** Yes. All right. Come to our factories too.

**Mr. Choquette:** I am in contact with the poor and the suffering in an environment where prejudices are even more disastrous than in a city like Montreal.

**Miss Plamondon:** I agree with you there. Prejudices are more disastrous in the country.

**Mr. Choquette:** We are trying to overcome these prejudices.

**Miss Plamondon:** I might point out that politically it may not be very profitable to take a position on this question.

**Mr. Choquette:** I am not concerned with whether it is politically profitable.

**Miss Plamondon:** Because these prejudices have not disappeared entirely as yet. But one thing is still certain: we cannot wait until these prejudices have disappeared. I for my part am in favour of preventing the situation, and of helping people.

[English]

**Mr. Forrestall:** Mr. Chairman, it is not prejudice because members are opposed to abortion. Bless their hearts; they can argue, but I wish they would go outside to do it. Can we get on with consideration of the brief?

[Translation]

**Miss Plamondon:** No, I am saying that prejudices exist. Prejudices exist and perhaps they are stronger in the country, it is true, and Mr. Choquette is from a rural riding. But simply because there are such prejudices, we should not be forced to wait until they all disappear before we create legislation to protect the human being. I always have had faith in preventive medicine, and I think that before starting sex education and so forth, we must establish this legislation, and I can guarantee you that in ten years abortions will no longer be profitable, because we will have played the role we should play as citizens in society.

**Mr. Choquette:** All right, I agree with you. But let us have education first, and then we will pass laws like the one you have just suggested.

[English]

**The Chairman:** Perhaps before we leave this question may I say I assume that sex education, like all education, is probably a

provincial matter. Mr. Forrestall do you have any questions?

**Mr. Forrestall:** I thought it was universal. I just have one line of questions, and I apologize for not being here at the beginning.

**The Chairman:** I should have said "provincial jurisdiction", not "provincial matter"?

**Miss Plamondon:** It is international.

**Mr. Forrestall:** It is surely international. I would like to question those who are presenting the brief, and I am sorry I do not know their names. It is signed by Mr. MacDonald, Mr. Dodge and Mr. Morris, and it purports to represent 1½ million members who are affiliated with the Canadian Labour Congress. I would like to ask about the background or preparation of the brief.

**The Chairman:** We have covered fairly extensively how the brief was set up, what representations were made, and so on.

**Mr. Forrestall:** That is fine. Thank you very much.

**The Chairman:** I think Mr. O'Keefe had a supplementary.

**Mr. O'Keefe:** Mr. Chairman, I have a million supplementaries. In effect, Miss Plamondon, are you not really trying to equate the pain or even the inconvenience of one person with the very life of another?

**Miss Plamondon:** I am sorry, I did not hear you. I have a hard time understanding you.

**Mr. O'Keefe:** In effect, the essence of your brief is abortion on request. Does that not simply mean trying to equate—trying to equalize—the pain or even the inconvenience, possibly a minor inconvenience, of one person with the very life of another?

**Mr. Coupland:** If I may answer, Mr. O'Keefe, I believe you are trying to equate those two. We have presented a slightly different view of it.

**Mr. O'Keefe:** Oh, no, far from it. You are asking for abortion on request: I am asking for some concern for the baby. It seems to me there has been no consideration; no concern and no thought for the rights of the baby at all.

**Mr. Coupland:** Mr. O'Keefe, you are using the term "human life" with regard to the unborn child.

**Mr. O'Keefe:** I will argue that if you wish, but I am only allowed to question you.

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**Mr. Coupland:** As we stated in our brief, we did not wish to enter into this aspect of the question. It has been dealt with by other expert witnesses.

**Mr. O'Keefe:** You represent  $1\frac{1}{2}$  million people, or so you say, although I do not accept that. You represent  $1\frac{1}{2}$  million people but you have called no poll. You have no way of knowing how many people in Newfoundland, for instance, are with you or against you on this big question.

**Miss Plamondon:** Mr. O'Keefe, I do not think you have a right to call us liars.

**Mr. O'Keefe:** I am not calling you liars.

**Miss Plamondon:** If we say we represent  $1\frac{1}{2}$  million members, we have them and we have the figures. Our membership is  $1\frac{1}{2}$  million and we represent those people. There might be a few...

**Mr. Forrestall:** I think Mr. O'Keefe is simply saying that you cannot represent  $1\frac{1}{2}$  million people.

**Mr. O'Keefe:** It is so obvious, Mr. Chairman, that I will not pursue it.

**The Chairman:** They have admitted it was not unanimous.

**Mr. O'Keefe:** That is nice of them.

**Mr. Allmand:** Miss Plamondon, you seem to say that if your proposals were introduced into the law—if we had abortion on request—that abortion would be easily available and cheap. Do you have any idea what percentage of doctors would be willing to grant abortion on request or for socio-economic reasons?

**Mr. Coupland:** We have no figures on that. I believe this question has been raised before your Committee previously and so far nobody has come up with a definite answer.

**Mr. Allmand:** So you know that the Canadian Medical Association and the majority of doctors who came before us, recommended abortion on certain serious grounds. I ask the question because I think it would be very possible in many smaller communities of Canada—let us say in Quebec, Chicoutimi, Nicolet, and Rimouski; in fact, even in On-

tario, Sudbury and places like that—you would not find, from my speaking with doctors, too many doctors willing to grant abortion merely on request. Consequently there would be doctors available but they would be very busy.

**Miss Plamondon:** I agree with you, but that would be the right of the doctor. For example, a doctor may not agree because of his or her religious beliefs. There are also women doctors who do not want to do it. On the other hand, there are doctors who would be willing to do it and who recognize the value of it and who will go all out to help that person.

You may have a lot of RC's who will object to it and you may have a lot of RC's who are in favour of it as well. This is a much lesser problem than the one we are facing in the restrictive legislation which is being suggested.

**Mr. Allmand:** You think there would be enough doctors who would do it on request to completely eliminate the back-door abortionist?

**Miss Plamondon:** I believe so.

**Mr. Allmand:** You believe so. Mr. MacInnis asked if you believed that every child has the right to be wanted. I think you answered yes, and I think we would all say yes to that. It would be much better if they were all wanted, but do you think the legalization of abortion to the extent that it be granted on request will do anything to ensure that children who are born are wanted?

**Miss Plamondon:** Normally I think it would at least improve the lot of the children in a much better way. It will help, for example, people with my income of \$5,000 although not too many workers have an income of \$5,000 yet. We have not reached that figure for workers and we are still fighting to improve it more than that. For example, statistics tell us that a family of four point something requires an income of \$5,700. These figures are not from trade union agencies, they are from social welfare agencies completely outside the labour movement.

**Mr. Allmand:** I wondered why you kept talking about the poor, because it does not seem to me there are too many poor in the CLC or among the members of the unions affiliated with it.

**Miss Plamondon:** I will give you the constitution and if you want you can look at my salary and see how good it is. However, that is beside the point when I am talking about the poor. We have the four solitudes in Montreal and a person who has an income of less than \$3,000...

**Mr. Allmand:** Answer the question. The question was will abortion help to ensure that children will be wanted?

• 1310

**Miss Plamondon:** Yes, it will be easier to have a planned family, to decide when you want a child. Even the pill is not a sure thing, it will merely help.

**Mr. Allmand:** Is this the solution to the problem?

**Miss Plamondon:** Until we can get something better it is a solution to prevent human beings from losing their lives, and to prevent their becoming sterile because of badly performed abortion, and things like that.

**Mr. Allmand:** You have no other recommendations for unwanted children?

**Miss Plamondon:** I think it is one of the solutions. As I said before, I think the productivity will be safe in the man as in the woman. I am sure, it will be of the greatest help. It is not too often that the government spends time studying the problems of women. This is being done for the first time by the Royal Commission on the Status of Women, and we feel this is an area where fortunately we can play a role in trying to help women. Women are the ones who get pregnant, you know. We do not alternate.

**Mr. Allmand:** Yes, without the help of fathers, I suppose?

**Miss Plamondon:** We now have artificial insemination.

**Mr. Allmand:** That is all.

**The Chairman:** Are there any other questions?

**Mr. Forrestall:** I am rather curious that you should conclude with that point on artificial insemination. It is not worth pursuing because the hour is late, but surely you are not suggesting that as a solution?

**Miss Plamondon:** No, no. Mr. Allmand said "without the help of fathers" and I meant that sometimes there is a problem with the fathers and artificial insemination has to be used.

**Mr. Allmand:** In law the father has full responsibility for the children and for the mother. The mother does not have any responsibility for the husband and the children. This is so in the Province of Quebec, in any event. The father must support all the children and his wife; the wife does not have the same responsibility as the father.

**Mrs. MacInnis (Vancouver-Kingsway):** What about the hundreds and thousands of deserted mothers across Canada?

**Mr. Allmand:** The husbands are breaking the law and the law can force them to provide.

**The Chairman:** Are there any further questions? If not, we would like to thank the Canadian Labour Congress—Miss Plamondon and her colleagues—for appearing before us today and presenting their proposals on the subject matter of abortion. Thank you for appearing and exposing yourselves to the Committee.

**Miss Plamondon:** Thank you, and we want to say that we appreciated your patience.

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OFFICIAL REPORT OF MINUTES  
OF  
PROCEEDINGS AND EVIDENCE

This edition contains the English deliberations  
and/or a translation into English of the French.

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ALISTAIR FRASER,  
*The Clerk of the House*

HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1967-68

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STANDING COMMITTEE  
ON  
**HEALTH AND WELFARE**

*Chairman:* Mr. HARRY C. HARLEY

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MINUTES OF PROCEEDINGS AND EVIDENCE  
No. 23

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THURSDAY, FEBRUARY 22, 1968

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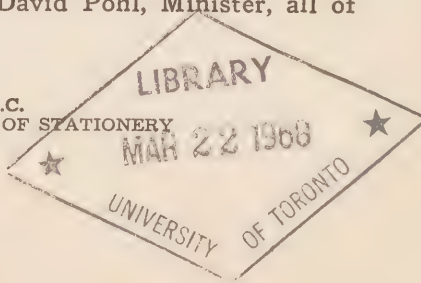
Respecting the subject-matters of  
Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

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WITNESSES:

*Representing The First Unitarian Congregation of Ottawa:* Mrs. Sonia Dakers; Mrs. Peter Andrews; and Rev. David Pohl, Minister, all of Ottawa.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1968



STANDING COMMITTEE

ON

HEALTH AND WELFARE

*Chairman:* Mr. Harry C. Harley

*Vice-Chairman:* Mr. Gaston Isabelle

and

Mr. Allmand  
Mr. Ballard  
Mr. Brand  
Mr. Brown  
Mr. Cameron  
    (*High Park*)  
Mr. Chatterton  
Mr. Cowan  
Mr. Enns

Mr. Forrestall  
Mr. Howe (*Wellington-  
Huron*)  
Mr. Knowles  
Mr. Laverdière  
Mr. MacDonald (*Prince*)  
Mrs. MacInnis (*Van-  
couver-Kingsway*)  
Mr. Matte

Mr. O'Keefe  
Mr. Orange  
Mr. Rochon  
Mr. Rock  
Mr. Rynard  
Mr. Simard  
Mr. Stanbury—(24).

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

THURSDAY, February 22, 1968.

(26)

The Standing Committee on Health and Welfare met this day at 11.40 o'clock a.m. The Chairman, Mr. Harry C. Harley, presided.

*Members present:* Mrs. MacInnis, Messrs. Brown, Cameron (*High Park*), Harley, Isabelle, Knowles, Laverdière, Matte, O'Keefe, Rochon, Rock. (11)

*Other Members present:* Messrs. Choquette, Duquet and Laflamme.

*In attendance:* Representing The First Unitarian Congregation of Ottawa: Mrs. Sonia Dakers, Mrs. Peter Andrews; and Rev. David Pohl, Minister, all of Ottawa.

The Committee resumed consideration of the subject-matter of Bills C-122, C-123 and C-136.

The Chairman introduced Mrs. Dakers, who, in turn, introduced the other delegates and made a short introductory statement.

The witnesses were questioned.

*Agreed,—*That the brief presented by The First Unitarian Congregation of Ottawa and the addendum thereto be printed as an appendix to this day's proceedings. (*See Appendix "WW"*).

The witnesses were further questioned.

On behalf of the Committee, the Chairman thanked the delegates for presenting their views and at 1:05 p.m. the Committee adjourned to the call of the Chair.

Gabrielle Savard,  
*Clerk of the Committee.*



## EVIDENCE

(Recorded by Electronic Apparatus)

Thursday, February 22, 1968.

• 1138

**The Chairman:** Ladies and gentlemen, I think we should start the meeting. Our witnesses this morning are from the First Unitarian Congregation of Ottawa, who have come to present a brief which has been in the hands of the Committee for some time. I would like to introduce the head of the delegation, Mrs. Dakers, and ask her to make a brief statement and introduce her delegation.

**Mr. O'Keefe:** Mr. Chairman, before we begin, I would like to speak on a question of privilege. In view of the fact that a certain political party have publicly stated that they would not attend any committee meetings, and in view of the fact that Parliament is still in session, I wonder if those members also intend to boycott that portion of their salaries which they earn because of attendance at these committee meetings?

**The Chairman:** I would not think, Mr. O'Keefe, that would be within the jurisdiction of this Committee. Shall we proceed with the meeting? Mrs. Dakers.

• 1140

**Mrs. Sonia Dakers (The First Unitarian Congregation of Ottawa):** Thank you, Dr. Harley, for providing The First Unitarian Congregation of Ottawa with an opportunity to present their views on the important issue of abortion. May I introduce Mrs. Andrews, who has been attending our church for four years. She is the mother of four children. Our minister, Rev. David Pohl, whom I am sure some of the members of the Committee are already acquainted with because of his presentation of the views of The First Unitarian Congregation in an earlier discussion on birth control. He is the father of two children and I am a mother of three.

Because of the interest Unitarians take in social problems, we took the consensus that appears as part of the appendix to our brief. The overwhelming agreement of those voting in favour of abortion on request led us to believe that the Committee should be made

aware that such a viewpoint existed among a sizeable sample group. Since the decision to present our brief was made it has become obvious in hearings before the Committee that our viewpoint is shared by other groups. We feel that the law on abortion as it now stands is ambiguous and discriminatory. As you can see in the brief before you, our congregation believes that the laws concerning abortion should be changed in order to permit a woman to obtain an abortion by a qualified medical practitioner upon request.

A liberal law such as we recommend would in no way compel anyone who does not want an abortion to have one; neither would a doctor be compelled to perform one against his will. We believe, of course, that prevention of unwanted pregnancies is preferred to abortion, but that abortion should be legally available where contraception fails or is unavailable.

The decision to bear a child should be a responsible decision and not a biological accident or a social punishment. Both mother and child possess rights. The mother has the right to decide when she will bear a child, and a child has the right to be wanted rather than just to be born.

We are appearing before the Committee in order that they may question us on the brief. The controversial issues that centre around abortion have been discussed at length by the committee who prepared the brief. Therefore any views expressed by us today are representative of a Unitarian attitude, but are not necessarily held by all members of the congregation.

We invite any questions that may be put to us.

**The Chairman:** Thank you very much, Mrs. Dakers. The meeting is open for questioning.

**Mr. O'Keefe:** Mrs. Dakers, I believe you said a moment ago that your views were not necessarily held by the majority of your communion.

**Mrs. Dakers:** I said by all members of the congregation.

**Mr. O'Keefe:** Have you any idea how many?

**Mrs. Dakers:** I cannot be specific about majority or numbers because, as I say, this is just a general philosophical attitude that was expressed. I have no number. All the numbers I can give you are on that consensus, and I cannot go outside that consensus in stating numbers.

**Mr. O'Keefe:** On the last page of your first brief you say:

The total attendance at the two services was 301, including several children who of course did not vote. 136 members voted representing 29 per cent of our legal membership.

And then you say:

Thus the consensus of the congregation is that the laws regarding abortion should be modified.

You want to abolish them. Seventy per cent, of 136 I believe, voted yes. In effect if my figures are right, 70 per cent of 136 is 95; all that you can really say is that 95 out of 15,000 Unitarian members are in favour of abortion on request. Am I being fair or unfair in that assertion?

**The Reverend David Pohl (The First Unitarian Congregation of Ottawa):** No, that is not quite right, Mr. O'Keefe; the 15,000 refers to the number of Unitarians in Canada.

**Mr. O'Keefe:** The members in Canada, Mr. Pohl?

**Rev. David Pohl:** Yes, there are 485 members in our congregation, and the 15,000 should be disregarded in this statistical breakdown.

**Mr. O'Keefe:** We will just think of 136 and 95.

**Rev. David Pohl:** We have two categories listed here, members and non-members.

**Mrs. Peter Andrews (The First Unitarian Congregation of Ottawa):** There were 258 people participating.

• 1145

**Rev. David Pohl:** There were 258 out of 301 participating.

**Mr. O'Keefe:** I still say, and you must agree with me, it is a very small number in comparison with 15,000 which is the number mentioned at the beginning of your brief.

**Mrs. Dakers:** No, we are just representing one church. We do not suggest that we are representing all Unitarians.

**Mr. O'Keefe:** You say in your brief:

It is the consensus of our congregation that legal abortions should be available, on request

Is it your consensus or is it not?

**Mrs. Andrews:** This is the consensus of the Unitarian Church of Ottawa.

**Mr. O'Keefe:** The 136 people I mentioned.

**Mrs. Andrews:** The 15,000 people are Unitarians across the country. This is the Canadian Unitarian...

**Mr. O'Keefe:** Yes, but had the 486 been interested enough in having abortion on request, had they been interested enough to go to the church, they would have certainly voted for it. You did have two meetings.

**Rev. David Pohl:** I think you would agree that 300 people present out of a membership of 485 is a pretty good percentage for any church on any Sunday.

**Mr. O'Keefe:** Not out of 15,000.

**The Chairman:** The point is that the 15,000 refers to the number of Unitarians in Canada and it has no relationship at all to the figures that you are reading.

**Mr. O'Keefe:** I understand that sir, I just wanted to make it clear.

Does your church, Mr. Pohl and ladies, subscribe to a belief in Almighty God?

**Rev. David Pohl:** Not necessarily.

**Mr. O'Keefe:** Not necessarily.

**Rev. David Pohl:** Ours is a non-credo church. Members are not required to subscribe to any theological belief.

**Mr. O'Keefe:** So, in effect, you have a religion which does not necessarily believe in Almighty God?

**Rev. David Pohl:** Does not necessarily...

**Mr. O'Keefe:** Believe in Almighty God?

**Rev. David Pohl:** Yes, that is correct, if you wish to put it that way.

**Mr. O'Keefe:** Then do you believe in the precepts, "Thou shalt not kill" and "Thou shalt love thy neighbour"?

**Mrs. Andrews:** Certainly.

**Mr. O'Keefe:** On what basis?

**Rev. David Pohl:** On what basis? Our belief in the human dignity of man.

**An hon. Member:** Excuse me, would you speak into the microphone, please.

**Rev. David Pohl:** Oh, I am sorry. The basis of the Unitarian Church is to be found in paragraph 2 of Appendix "A", the principles upon which Unitarian churches are founded. Unitarian churches, like certain other religious societies, are based on ethical rather than theological principles; on the dignity of man rather than upon any particular belief about God.

**Mr. O'Keefe:** When you speak about the dignity of man you apparently do not include unborn babies?

**Rev. David Pohl:** When we speak of the dignity of man we mean the dignity of the person. In any event, my position would be that a human being is not a person until he is born, until he is alive.

**Mr. O'Keefe:** What is it?

**Rev. David Pohl:** Birth.

**Mr. O'Keefe:** But what is it before birth if it is not a human being? Is it a frog, a cat, a dog, a mouse or just what is it?

**Rev. David Pohl:** A foetus.

**Mr. O'Keefe:** What is a foetus?

**Rev. David Pohl:** A potential human being.

**Mr. O'Keefe:** Well, what is a potential human being?

**Mrs. Dakers:** According to the Criminal Code this is not a human being.

**Mr. O'Keefe:** I am not talking about the Criminal Code, I am asking your opinion. You want abortion on request and I am trying to find a basis for it. There has to be some basis for your belief that a person should be able to equate, as you apparently do, the pain or the inconvenience possibly even the minor inconvenience of one human being with what at least I believe to be the very existence or the very future of another human being.

**Mrs. Dakers:** Yes, but whose pain?

**Mr. O'Keefe:** I beg your pardon?

**Mrs. Dakers:** Whose pain? If you are going to talk of pain, surely the mother...

**Mr. O'Keefe:** Yes, I agree, the pain of the mother, or the inconvenience of the mother. Do not forget, you want abortion simply on request. You are not interested in pain or even inconvenience.

**Mrs. Andrews:** I think we are talking about human beings who are alive.

**Mr. O'Keefe:** I know you are talking about human beings who are alive, but you are completely disregarding human beings whom, I believe are alive but are not yet born. Is that not true?

**Rev. David Pohl:** I would not say we are disregarding a potential human being, but our position is that no right of a potential human being can be allowed to supersede the right of a woman to decide whether or not she shall bear a child.

**Mr. O'Keefe:** No matter what the reason?

**Rev. David Pohl:** Right. That is my view.

**Mr. O'Keefe:** Do you not think that is a very simple and I believe unChristian and unhuman way to avoid a problem?

**Rev. David Pohl:** No, quite obviously we do not believe that.

**Mr. O'Keefe:** I beg your pardon?

● 1150

**Rev. David Pohl:** Quite obviously we do not believe that. I would like to quote Margaret Sanger, who put it very well I think when she said:

No woman can call herself free until she can choose consciously whether she will or will not be a mother.

**Mr. O'Keefe:** I suggest to you, Mr. Pohl, that answer was given in the context of birth control, not of abortion.

**Rev. David Pohl:** Quite true, but I am sure that Margaret Sanger would take the same position regarding abortion. Her position was that a woman should have the right to decide whether and when she would bear children.

**Mr. O'Keefe:** That is a matter of opinion, is it not?

**Rev. David Pohl:** Yes.

**Mr. O'Keefe:** Mr. Chairman, I have many other questions but I do not think we will get any further on this subject, so I had better pass.

**The Chairman:** Are there any other questions? Mr. Rock?

**Mr. Rock:** Mrs. MacInnis, did you want to go ahead of me?

**Mrs. MacInnis (Vancouver-Kingsway):** No, not right now; I will wait.

**Mr. Rock:** I want to ask the witnesses to further explain the reason they added this addendum "A". You give statistics on children born illegally and according to the statement made, I am trying to understand why they have added this statement to their brief.

**Mrs. Andrews:** This is an appendix which was recently compiled by the committee presenting the brief after it had been written. It might perhaps be preferable first to discuss the actual brief from the congregation, which is a simple statement of our belief, and then go on to discuss the addendum after members have had a chance to look at it. These are some statistics we felt might be relevant to the discussion.

**Mr. Rock:** Just a moment, Mr. Chairman. First of all, this brief was not read. Are we going to accept it as read?

**The Chairman:** Oh yes; I am sorry.

Is it agreed that today's brief be printed as part of today's record?

**Mrs. Andrews:** And the addendum.

**Mr. Rock:** Do you really want this addendum placed on the record, too?

**Mrs. Andrews:** Yes.

**The Chairman:** It is part of their presentation.

**Mrs. Andrews:** Have you any further questions on the brief?

**Mr. Rock:** I have no questions on the brief. It is the consensus of your congregation and is very interesting, but I wish to ask you why the statistics have been added. They do not add anything.

**Mrs. Andrews:** Do you wish to discuss this point?

**Mr. Rock:** Yes; it is my turn for questioning. Could you elaborate a little further on the reason for adding them? You say here:

In our opinion, it is also important to take into consideration the many cases of human misery which are never involved in a recorded social statistic.

There were 28,000 illegitimate births in 1965. Are you saying that they are all in a miserable state now?

**Mrs. Andrews:** No, they are not. I think all members have received a copy of the addendum. We compiled this just recently, as a Committee.

As Mrs. Dakers has said, we are very concerned with what happens to the unwanted child after birth. We felt that perhaps we should leave with you some statistics which might have some relevance to the general discussion.

The statistics on page 2 of the addendum are of crimes under the Criminal Code committed against children in Canada in 1965. I would ask you to look at the figures under "Summary Convictions." I suggest that such convictions in such numbers would not occur were children born into an environment where they are wanted. I had hoped that these figures would give some indication of the wide ramifications of our present inability to control family size in our society.

• 1155

Again, we are not seeking to impose our beliefs on everybody. We merely want the woman to have the freedom to make the moral decision on whether or not she wants to bear the child. I did not feel that the statistics on the final page are as relevant to the discussion as those on the second page, but I included Table 10 merely to show that births to unmarried parents are increasing. These illegitimate births were fairly static for 20 years until about 1955, but since then they have been increasing rapidly. They have doubled, in fact, in the last ten years.

**Mr. Rock:** Yes. But you will understand my concern. First of all, on page 2 there appears: "Certain Offences Table 17 (p. 129) Convictions under Non-support and contributing to delinquency of children." On page 3 you show illegitimate births, and I thought you were trying to have us believe that there was some connection. But we cannot be sure that the

8,292 were all illegal. I thought you were trying to combine them as one problem. They are completely separate problems.

**Mrs. Andrews:** These are two separate problems. I included Table 10 to show that the number of births to unmarried parents has increased.

**Mr. Rock:** I wanted to have that clarified.

**Mrs. Andrews:** We are really trying to show by these statistics, particularly those on the second page, that there are many children who are not receiving competent care after they have been born into this world.

**Mr. Rock:** Yes; but these statistics do not prove that. You cannot say that a percentage of the 28,000 illegitimate births in 1965 have been abandoned, or anything like that?

**Mr. Andrews:** No; I am not attempting to say that every unmarried pregnant woman must have an abortion. All I am saying is that a woman should have the right to decide whether she will have the child. Thank you.

**Mrs. Dakers:** We are trying to point out that we are all concerned about children after birth. Personally, I think it is not important for this Committee to talk about moral decisions. We are trying to obtain a legal right so that someone can make a moral decision. To me it is just as immoral to bring a child into the world and leave it to fend for itself as to stop its being born.

I am speaking from personal experience. I am involved with a voluntary group called "Operation Act" which works with so-called underprivileged children in Lower Town. I have seen these parents who have five, six, seven, or more children, who cannot even cope with one or two. To me this is immoral, but it is not the question before the Committee. We are deciding on a legality, and in many of the discussions that have taken place I think there has been confusion between moral decisions and legal decisions.

**Mr. Rock:** You are not actually saying, then, that between 1936 and 1965 all these illegal births should not have taken place. That is what I was wondering about.

**Mrs. Dakers:** We are just seeking to point out that there are social problems. It is all very well to say that there should be no abortion, and if our society was such that it allowed people in what we call unsocial conditions to survive we would not need abor-

tion; but one has to be realistic. One cannot talk about the abstinence of Paul in this day and age. Laws change; people change; society changes; and we have to be willing to adjust. That is all we are asking.

**Mr. Rock:** Thank you.

**The Chairman:** Mr. Choquette?

**Mr. Choquette:** I will ask my questions in French.

• 1200

[Translation]

**Mr. Choquette:** The motive on which you base your argument is the following, that is, that a woman has the right to complete control over her body. What worries me in all this is that you do not seem to admit that mutilation is morally forbidden. In other words, there should not be any legislation prohibiting alcoholism or addiction to drugs because if control of the body exists, then any citizen has the right to destroy himself by imbibing liquor or taking drugs in an abusive manner. It is this principle which seems to result from the justification of abortion which you advocate. What do you think about this? Do you think any human being has the right to self-mutilation?

[English]

**Rev. D. Pohl:** My first reply, Mr. Choquette, would be that the right of the woman to decide for herself whether and when she will bear a child should not be considered apart from the right of the child to be wanted. The latter, I think, is often lost in the shuffle.

If the child is not wanted by the mother I for one do not believe it is moral for the child to be born. In any event, it is for the mother to decide; and I do not consider abortion to be in the same category as these other examples you cite such as mutilation, drugs and addictions of various kinds. I just do not consider them to be proper analogies.

[Translation]

**Mr. Choquette:** Do you not think that in certain cases... I favour the concept of therapeutic abortion but, on the other hand, abortion on request, I really cannot see how you can advocate such a situation because you know very well, without being a doctor, that in certain cases gynaecological troubles can resort from abortion. It is therefore mutilation, and you are violating the social order

if you say that any human being has the right to mutilate himself. Thus, I can remove my own eye, my own finger, my own hand and there is no limit. However, I do not have sufficient reason to do so.

[English]

**Mrs. Dakers:** I think you are misunderstanding what we said. We mean a duly-qualified practitioner. We did not suggest that the woman perform the abortion on herself.

[Translation]

**Mr. Choquette:** Therefore, you mean that if the doctor refuses to perform the abortion...

[English]

**Mrs. Dakers:** That is his prerogative, is it not?

[Translation]

**Mr. Choquette:** So, the doctor, depending to his viewpoint...

[English]

**Mrs. Dakers:** This is under medical, sanitary conditions. We say this somewhere in the brief. We are not advocating that women do their own abortion. That is ridiculous.

**Rev. David Pohl:** No. We say in the brief: ... so as to provide that an operation for the termination of pregnancy shall be lawful upon the request in writing by the pregnant female to any duly qualified medical practitioner.

Personally, I do not think this is something taken lightly by any woman.

**Mrs. MacInnis (Vancouver-Kingsway):** Mr. Chairman, may I also point out that even in making this admission the witnesses pointed out that where a doctor would not perform an abortion there was no thought of it.

[Translation]

**Mr. Choquette:** But if I understand you correctly, Mrs. MacInnis, if the doctor feels that it is not good for the health of the young girl or the young woman or the woman who is asking for an abortion, it would be his duty to refuse.

**Mrs. MacInnis (Vancouver-Kingsway):** It has also been said that when it is against the conscience of the doctor he will not be forced to perform an abortion.

**Mr. Choquette:** Of course, it is impossible to force a doctor to proceed with an abortion. I agree.

**Mr. Matte:** But if the doctor refuses to perform an abortion, what would happen?

**Mr. Choquette:** Exactly, if the doctor refuses to proceed with the abortion because he feels that such an abortion will be harmful even if it will only be slightly harmful, if the doctor refuses to perform an abortion, will another doctor have the right to agree to an abortion?

• 1205

[English]

**Mrs. Dakers:** That is right; and she may seek another medical opinion. That is her prerogative, too.

[Translation]

**Mr. Choquette:** What you advocate is the total right of the woman over her own body and even if she consents to mutilate herself there is no social law to prevent her from doing this?

[English]

**Mrs. Dakers:** No; because our brief does not say that. You are reading into it things that are not there.

We specify a practitioner. We do not say that a woman...

[Translation]

**Mr. Choquette:** In other words if a doctor believes that the health of the woman could be affected and in spite of this he consents to perform an abortion, it would not be illegal. Is this what you want?

[English]

It is the doctor's decision; but if the doctor, knowing that it could be harmful, still decides to proceed there is nothing illegal?

**Mrs. Dakers:** That is a medical decision. He is making these decisions every day of his life. Abortion is no different.

[Translation]

**Mr. Choquette:** But you must admit that abortion is certainly not likely to improve the health of a woman. Nobody could advocate such a theory, unless the life or the health of the mother is endangered because of pregnancy, but in the case of curettage which is not required at all by the health of the pregnant woman I cannot see how you can admit that an abortion in such circumstances improves the health of a person.

[English]

**Mrs. Andrews:** Not having an abortion could certainly affect her mental health, and her health afterwards. It could affect her physical and mental health after the baby is born. The strain of coping with more children could greatly affect her health. The mental and physical environments of the whole family, where there are two or three children more than the family can really adequately cope with, can certainly affect the mental and physical health of the mother and the family.

• 1210

[Translation]

**Mr. Choquette:** I will not prolong the questioning but I cannot share these ideas. Do you not think that before adopting such legislation it would be essential—"imperative"—I am listening to the translation; there are certain things that we say and when they are expressed in another language they appear acceptable. What I would like to say is this. Do you not think that before going this far, we should undertake a massive campaign for sex education?

This is what is needed first of all. And the pill, which is becoming more and more accepted, and rightly so, should be able to prevent the legislation that you propose. If people are educated and if the pill is readily available, I do not see why we would have to legalize abortion to the extent which you ask.

[English]

**Mrs. Andrews:** We certainly do not recommend abortion as the only method of controlling family size. As stated in the brief, we have already sent a recommendation about improvement in the law concerning birth control. This came not just from this particular Unitarian Church in Ottawa but from the whole Canadian council across the country. We think that these problems are related. There should be broad education on birth control. However, there will always be a need for abortion as a secondary measure—as perhaps a last chance—for the woman who feels that she cannot bear this child.

[Translation]

**Mr. Choquette:** In the educational campaign which I would undertake, I would try to convince. Basically, abortion on request can be understood in the case of unmarried mothers, especially because of prejudices which exist in certain parts of the country where being pregnant, being an unmarried mother, is a

dishonour, it is a disgrace, it is unpardonable. Unfortunate prejudices do exist, I admit. And if there is to be a campaign of sex education, people must be taught that abortion is not to be recommended and that there are so many ways of preventing birth that it would be better; to have recourse to these means instead of using extremist measures like the one which you advocate.

[English]

**Mrs. Andrews:** We certainly recommend that there be this education and that birth control be used as widely as possible; but for the occasional mistake—for the young children who occasionally become pregnant without even realizing what they are getting into—we feel that abortion should be available by law, and that the child and the parents, in this case, should be able to make the moral decision whether that young child should become a mother or should have an abortion if she so wishes.

• 1215

This was one of the reasons for our including Table 6 on page 3 of the addendum, which gives statistics for live births by the age of the mother. You will see that in 1965 there was one child of 11 years who bore a child. I question very much whether that child was capable of knowing anything about contraception, or even knew what she was undertaking when she became pregnant.

**Mr. Choquette:** Have you made any special enquiry about that particular case? Could that be a rape?

**Mrs. Andrews:** No, I have not. These are statistics from the Dominion Bureau of Statistics. I have not followed any of them up.

**The Chairman:** You would not be able to. These statistics are confidential.

**Mr. Choquette:** Yes; I guess so.

**The Chairman:** Mrs. MacInnis?

**Mrs. MacInnis (Vancouver-Kingsway):** I think it is quite obvious to all of us that the submission this morning does not arise from any lack of moral sense; it is just a different idea of morals. A definite moral stand has to be taken to present this type of brief.

Could you elaborate a little on the reasons for your stand on abortion? Am I correct that your strongest stand is that women should

have the right to control their bodily functions?

**Mrs. Andrews:** Yes.

**Mrs. MacInnis (Vancouver-Kingsway):** Is that your main reason for advancing your position or are there others?

**Mrs. Andrews:** This is undoubtedly the main reason.

**Mrs. Dakers:** And also because of an interested concern in children after their birth.

**Mrs. MacInnis (Vancouver-Kingsway):** I am rather surprised that you have not dealt more specifically with another aspect. I wondered whether your stand sprang from a belief that this was the only way to deal with the large number of illegal abortions at the present time?

**Rev. David Pohl:** That is an interesting by-product perhaps, but the principal reason still is our feeling that this is a matter for personal decision. It is a matter of conscience, on which good people differ, but because this is so the decision should be reserved to the individual.

**Mrs. MacInnis (Vancouver-Kingsway):** All right. In your study on abortion have you given thought to how the very large number of illegal abortions could be controlled or stopped?

**Mrs. Andrews:** I think that abortion on request is perhaps one, if not the only, way that the large number of illegal abortions can be cut out. If the law were widened to include one or two other specific reasons for abortion I doubt that that would make very much difference to the number taking place in this country.

• 1220

**Rev. David Pohl:** We recognize that in any liberalization—we probably move gradually, but if committees are to decide whether or not abortion is to be permitted, there is the time element, the fact that it takes time for committees to meet, to get quorums and to arrive at decisions. A woman is not going to wait indefinitely while a committee makes up its mind. Preferably abortion should take place in the first 12 weeks, and if a committee cannot make up its mind, or if it decides against on some evidence, then the woman will either get an illegal abortion or carry on with the pregnancy. Some people make much

of the fact that Sweden's illegal abortion rate has not dropped a great deal despite its liberalization. They have these committees, and they result in what I have just been describing.

**Mrs. MacInnis (Vancouver-Kingsway):** Upon what authority should a woman be able to have an abortion? Should it be a therapeutic abortion committee in an accredited hospital, should it be two three accredited doctors on consultation, or what should it be?

**Mrs. Andrews:** Unfortunately our consensus was that we did not feel qualified to bring this out. However, I think most of us feel that boards would cause unnecessary delay and...

**Mrs. MacInnis (Vancouver-Kingsway):** Let us have your feelings.

**Mrs. Dakers:** Our own feeling, I think, is that one medical practitioner is sufficient. Now I realize there would have to be some administrative details to ensure that the abortion took place in an accredited hospital. I mean, you would not want it taking place in an office, but these are administrative details and medical decisions, I feel. I do not know how far you can go.

**Mrs. Andrews:** We are not qualified to decide exactly how the abortion should take place, but we feel that the decision to have an abortion should be made by a person and her doctor.

**Mrs. MacInnis (Vancouver-Kingsway):** The suggestion has been made at various times to this Committee that if the abortion laws were liberalized even less than you propose a great many women who do not seek abortions now would run in to get an abortion for very frivolous reasons or to suit their convenience. I had a letter from someone suggesting that because a woman who was pregnant found she could not get into her summer clothing she would go in and get an abortion. Now, do you think that women are likely to make a sudden rush if the laws were legalized?

**Mrs. Andrews:** I certainly do not. No woman is going to have an operation, any kind of operation—a tonsillectomy for instance or any other operation on a par with abortion—without considering it well. A much greater decision is involved in abortion because it is a moral decision, and I do not feel that any woman is likely to seek an abortion on trivial grounds.

In discussing the point you brought up earlier about whether we should have certain

grounds for abortion or whether it should be on request, I point out that 93 to 99 per cent of the ballot of our congregation favoured every point in Bill C-122—your Bill, Mrs. MacInnis.

On every individual point within your Bill the lowest percentage in our ballot, as you can see for yourself, was 93 per cent and this ranged up to 99 per cent. The consensus for abortion on request still was 70 per cent.

• 1225

**Mrs. MacInnis (Vancouver-Kingsway):** If they could not get full permissive abortion as you are suggesting, would your congregation favour something along the lines of the British bill which takes into account the socio-economic conditions such as the possibility that if a woman raised another child it would endanger the standards of the family she already has?

**Mrs. Andrews:** From the ballot I think, perhaps, that certain members of the congregation feel this way, judging from the 70 per cent ballot going up to 90 per cent. But 70 per cent of the congregation believed that abortion should be on request of the woman only; there should be no other qualifications.

**Mrs. MacInnis (Vancouver-Kingsway):** If we could get laws for permissive abortion, may I ask whether you think they would reduce the number of the offences shown on page 2 of your addendum, and if so, which kind would likely be affected?

**Mrs. Andrews:** I do believe sincerely that the number of offences would be reduced because, for instance, I do not believe—and I must point out that this is a personal opinion—that any husband is going to desert his wife and family if he has a child that is wanted. If he wants the children that are brought into this world he is not going to abandon them or fail to provide the basic necessities of life and I think that if the legislation were altered these statistics could be reduced considerably.

**Mrs. MacInnis (Vancouver-Kingsway):** Would it cut down the number of battered children?

**Mrs. Andrews:** We cannot prove that it would do so, but I feel that there is a very definite correlation. At the present time there are no statistics available on the battered child so far as I know.

**Mrs. MacInnis (Vancouver-Kingsway):** But you have the impression that if there were the possibility that every child could be a wanted child, it would reduce such offences

as desertion, battered children and delinquency of various kinds?

**Mrs. Andrews:** And neglect; yes, indeed I do.

**Mrs. MacInnis (Vancouver-Kingsway):** I have just another question. Fears have been expressed in this Committee that if we had permissive abortion the supply of unwanted children in orphanages would dry up and there would not be enough children to enable people unable to have children of their own to have a family. What do you think of that idea?

**Mrs. Dakers:** I think lack of children for adoption will never be a problem for religious reasons. There will always be enough children to adopt because there will always be enough people who will refuse to have abortions for religious reasons.

**Mrs. MacInnis (Vancouver-Kingsway):** Even if there is widespread birth control?

**Mrs. Dakers:** I still think that despite birth control some people will refuse to practise it for religious reasons.

**Mrs. MacInnis (Vancouver-Kingsway):** You see, the statistics prove that although birth control is not legal in Canada, in practically every province I think, the birth rates have fallen off over the years so that perhaps your argument about religious reasons is not working out in practice well as it is in theory.

**Mrs. Dakers:** Yes, but would it not be a wonderful thing if the balance did drop? Maybe we could adopt children from other countries; you know, I think we still have a great big problem there. We might start adopting Koreans and Indians, and so on. There will always be enough children.

**Mrs. Andrews:** In any case I hardly think this is a pertinent question because we are not here to provide children for adoption by other people.

• 1230

**Mrs. MacInnis (Vancouver-Kingsway):** I do thank you very much. There are a lot of other questions that could be asked, but I think your attitude is very clear-cut and does not leave too much woolliness and fog to be cut through by questions. Thank you.

[Translation]

**The Chairman:** Mr. Matte.

**Mr. Matte:** I would like to ask you if your group favours free love?

[English]

**Mrs. Dakers:** I think that is irrelevant.

**Mrs. Andrews:** That is a matter of individual...

**Mrs. Dakers:** Why? Did you want to join?

**The Chairman:** I do not think that is very relevant to the subject matter.

**Mr. Laflamme:** Mr. Chairman, I want to deal very briefly with two great principles which are involved in this presentation. The first one is to be found in the first paragraph where it states:

State interference in the life of a pregnant woman in claiming rights over her body is an unwarranted infringement...

and so on. Along the line of ideas raised by Mr. Choquette, what is the difference between this complete right over the body and the right to commit suicide? What about self-mutilation?

**Rev. David Pohl:** That is an interesting question. I think you will find that a great many people who deal in Christian and social ethics are not at all dogmatic about the morality of suicide. Quite frankly, I would be the last one in the world to pass judgment on a person's right to take his own life.

**Mr. Laflamme:** Then along those same lines, do you suggest we should amend the Criminal Code and scratch the offences of the intention to commit suicide and committing suicide?

**Rev. David Pohl:** But that is not the question we are here to discuss. If you want me to be consistent in terms of morality I would tell you...

**Mr. Laflamme:** I am not talking about morality, I am simply talking about this principle which says in precise language that if you have a complete right over your body you then have the right to commit suicide. My view on this is clear. It deals with this.

**Rev. David Pohl:** My view is clear and I stated it.

**Mr. Laflamme:** You raise another argument in your brief where you state because there are too many offences committed right now

under the Criminal Code with regard to abortion that we should amend it. We could also say along the same line that because there are too many frauds committed in this country that we should amend the Criminal Code to reduce them.

**Rev. David Pohl:** Too many what?

**Mr. Laflamme:** Too many frauds committed, and that we should amend the Criminal Code to reduce them.

**Mrs. Andrews:** I do not quite follow your line of reasoning. We say the question of abortion is a moral decision, it is not a legal decision.

**Mrs. Dakers:** If I may draw a parallel, why are the committees in the United States going into the safety requirements of cars in order to prevent traffic deaths? They are very worried about the number of deaths. I think a parallel can be drawn here. They are trying to come up with legislation that will help to prevent traffic deaths, and I think this is the modern trend. I agree in the past this was not true, but I think this is the modern trend.

**Rev. David Pohl:** But to deal philosophically with your earlier question about legalizing fraud, and so forth, because there are so many frauds, there are good laws and bad laws and there are enforceable laws and relatively unenforceable laws. It seems to me the unenforceable laws, which are the ones that are broken consistently and by a large number of people, reflect the fact that a great many people do not believe the laws are morally right and therefore they think they are justified in breaking them. These are what I would call bad laws. In order to make a law enforceable you have to have a fair amount of agreement in society that that law is good and that it is justified.

**Mr. Laflamme:** I do not entirely follow your views about abandoned children. I think it is a little too late to speak of abortion when you are about to abandon a child, because the child has already been born at that time. You will not solve any of the problems of abandoned children by permitting abortion.

**Mrs. Dakers:** But we have presented this from the standpoint of hindsight. We are speaking about the children who will be born.

• 1235

**Mr. Laflamme:** There is no relationship between some woman who may abandon her child and this question of abortion.

**Rev. David Pohl:** Surely there is a relationship. It seems quite evident to me there is a relationship between unwanted and abandoned children.

**Mr. Laflamme:** But the child is already born; the woman wanted it.

**Rev. David Pohl:** Yes, but what about 1970?

**Mrs. Andrews:** No, if the woman wanted the child and loved the child, would she abandon it? I do not think she would.

**Mr. Laflamme:** Would you then express the view that because a pregnant woman later intends to abandon her child that she has the right to an abortion?

**Mrs. Andrews:** If she is pregnant and does not want the child for whatever reason. Some of these children, for instance, arrive in a family where there are already three or four children and the woman does not feel she can cope with another child. If she has to have this additional child she may go to pieces and not be able to cope with her four other children. The family may, and in some cases does, fall apart when the woman feels she cannot cope any more, or the father just walks out and deserts the family. He feels he cannot support or cope with them any longer. This is one particular example, that is all.

**Mr. Laflamme:** Yes, I agree with this particular example but do you not agree there are many other problems to be solved in connection with this situation?

**Mrs. Dakers:** Yes, but they are not being solved. This is the whole point.

**Mr. Laflamme:** They are not being solved?

**Mrs. Dakers:** No. The children's health problem is solved but I am speaking of social health agencies, day care centres, and this type of thing. This is all in its infancy and in the meantime we cannot wait. We have to do something about it now.

**Mr. Laflamme:** On those grounds you would favour...

**Mrs. Dakers:** In any event, I think it is unfair to expect a woman to bear every child she conceives. This child that has arrived by some—well, we know how children arrive.

**An hon. Member:** By the stork.

**Mrs. Dakers:** I think it is highly unlikely this woman will ever bear a wanted child if she is forced to continue a pregnancy that is not wanted. However, if you allow a woman to plan her family, at some future time she may bear a wanted child. In fact, it is extremely likely that she will. There are statistics on this in the United States. I was reading a book the other day which said that most families are unplanned, and most of us have children which we did not expect but which we accepted. We are talking about people who cannot cope; we are not talking about the average person who manages to cope.

**Mr. Laflamme:** Have you ever verified or checked the statistics on abortions occurring in the State of New York over the last ten years? It has already been proven there by statistics that since the abortion laws have been liberalized the increase in abortions occurred in private hospitals where the clients are rich, not poor.

**Mrs. Andrews:** This is why we are opposed to the idea of a hospital committee ratifying abortions. I feel this very definitely means that abortions are for people who can afford them. If a woman living in a small community in a remote area of Canada where there is no hospital goes to her doctor to request an abortion, he may advise her to get somebody to look after her children and take a trip to have the abortion. But if she has to go to Toronto to appear before a hospital abortion committee to ask for an abortion, she may have to stay several days before returning home. She may then have to go back to Toronto again to have the abortion and perhaps she could not afford two trips. Many women could not afford this.

• 1240

**Mr. Laflamme:** I have only one further question.

**Mrs. Dakers:** I think the law as it stands at the moment is extremely unfair. The people we are trying to help are the people who are suffering. A person who has money can get an abortion; it may be illegal but she can get it. We are trying to help those people who cannot do this.

**Mr. Laflamme:** But do you not agree when we discuss these matters that there is no

question of supplying money and getting an abortion; we cannot relate both those things.

**Mrs. Dakers:** I did not quite understand your question.

**Mr. Laflamme:** I will express myself in French.

[Translation]

How can you relate the two concepts of financial need and the necessity of an abortion? They are two completely different things which cannot be related to one another. The question of the right to abortion has no relation whatsoever with the question of financial need.

[English]

**Mrs. Andrews:** No. This is why we are asking for abortion on request; then there will be no distinction. But if you broaden the grounds for abortion to some degree where the woman has to go before a hospital committee, then you are making a distinction because the people who can afford it will get to the hospital committee and will get abortions whereas the people who cannot afford to will not. Then, in this case, you are making a financial distinction that we are trying to avoid in our request.

**Mr. Laflamme:** And now if I may ask a further question. On the subject of the abolition of capital punishment, did your congregation give an opinion on it?

**The Chairman:** I am not sure that is relevant to this subject.

**Mr. Laflamme:** It is relevant in the sense that the foetus is a human being. If you have the right to kill it, why not kill the criminals?

**Mrs. Andrews:** I do not believe that a foetus is a human being.

**Mr. Laflamme:** You do not believe that.

**The Chairman:** It depends on your belief or your definition.

**Mr. Laflamme:** All right. I agree with you on this.

**Mr. Cameron (High Park):** The principle of your brief is that the mother of a child has the right to terminate its birth. It is a non-restricted right. If she wants to terminate that pregnancy by an abortion, she has the legal right to do it. Do you know of any jurisdiction that has a law that goes to that extent?

**Mrs. Andrews:** Japan.

**Mr. Cameron (High Park):** The mother can, of her own volition, say: "I do not want to go through with the birth of this particular child and I want the pregnancy terminated."?

**Mrs. Andrews:** Yes. The law as it now stands in Japan is. . .

**Mr. Cameron (High Park):** That is the law of Japan? The right of the mother, in law, is paramount to the right of the child? Is that your opinion?

**Mrs. Andrews:** Yes.

**Mrs. Dakers:** No, there is priority. The mother has priority.

**Mr. Cameron (High Park):** Priority is paramount, in the way I am phrasing it, at any rate, and this means that they have the say, the last word. Their decision is the final word. The child has no right or no one can defend the child's right if the mother wants to terminate that pregnancy.

**Mrs. Andrews:** What are you defining as the child's. . .

**Mr. Cameron (High Park):** You have said, in answer to Mrs. MacInnis's question, that it is a moral right. I am going to suggest to you that the child may have a legal right, too. The mother's legal right is paramount to the child's legal right. Or do you admit that the child has a legal right?

**Mrs. Andrews:** Once it is born, once it becomes a human being, it has a legal right.

**The Chairman:** We are getting into a question of semantics. When you say "child" I think you are not meaning "child" at all; you are talking about a foetus which is unborn.

**Mr. Cameron (High Park):** That is correct. And then, when do you believe it ceases to be a foetus and becomes a child?

**Mrs. Andrews:** I think this is clarified in the criminal code.

**Mr. Cameron (High Park):** I am not asking you what is in the criminal code. I am asking you when you, in your opinion, think it ceases to be a foetus and becomes a child?

• 1245

**Mrs. Andrews:** When it leaves the mother's body.

**Mr. Cameron (High Park):** Not before?

**Mrs. Andrews:** No.

**Mr. Cameron (High Park):** So that at any time up until birth the pregnancy can be terminated at the desire of the mother.

**Mrs. Andrews:** Technically, yes, but I do not think that this is advisable.

**Mr. Cameron (High Park):** I am not asking you that. I am just saying that your thinking carries you that far.

**Mrs. Andrews:** If I may give a statistic where they do have abortion on demand, in Japan 94.3 per cent of the abortions are performed before or during the third month of pregnancy.

**Mr. Cameron (High Park):** This may be so. It may be that there is an intermediate period. The criminal code already provides that when the life of the mother is in danger, there can be an abortion. There may be an extension of that under other circumstances—incest, rape and so on—where the desire of the mother may be paramount to the right of the child. Do you think that after it ceases to be a foetus and becomes a child, the mother's right is still paramount?

**Mrs. Andrews:** No. Once the child has left its mother's body, then it is a human being and has rights.

**Mr. Cameron (High Park):** You think it is a foetus until the actual moment of birth.

**Mrs. Andrews:** That is correct.

**Mr. Cameron (High Park):** Thank you.

**Mrs. Dakers:** Can we clarify one point? An abortion refers to the first three months; after that, technically it is a miscarriage. We are speaking of abortion.

**Mr. Cameron (High Park):** Now you have started me off on another series of questions but I will be very brief.

**Mrs. Dakers:** May I raise another point before you question. When you are speaking of legal rights of the unborn child, until it is 20 days old there is no need for a birth or a death certificate so legally. . .

**Mr. Cameron (High Park):** Is not this what Tennyson would call some new and diffusive thought that is going to work and spread in time? Twenty years ago you and the general public would never have thought of this sort of thing. What, in your opinion at the present time, is the thinking of, shall we say, the

body general of Canada in regard to abortion? Do you think the majority favour going to the extent that you do?

**Mrs. Andrews:** In a survey in 1965, I think, 71 per cent of the population of Canada voted in favour of abortion law reform.

**Mr. Cameron (High Park):** Abortion law reform. But that is an entirely different thing from what you are advocating. You are advocating the complete right of the woman to say whether or not she will give birth to the child that is growing within her body.

**Rev. David Pohl:** Seventy-one per cent of Canadians want to see liberalization in the present laws; perhaps not many of them to the extent that we do, although statistics say 71 per cent want liberalization.

**Mr. Cameron (High Park):** What is the consensus on your opinion?

**Mrs. Andrews:** Over 70 per cent of our church voted for.

**Mr. Cameron (High Park):** Do you think that over 70 per cent of the people in Canada would believe in that, would support a law of that kind?

**Rev. David Pohl:** I do not think they have been asked.

**Mr. Cameron (High Park):** You stated in one place there must be a law that had general support and approval, and that it had to be a good law. If the great bulk of the population do not support it, then it could not possibly be a good law.

**Rev. David Pohl:** We do not know that they do not support it. They have not been asked. They have been asked if they support change and 71 per cent have said that they do. They have not been asked how far they would go in change.

**Mrs. Andrews:** What we are trying to point out is that over 70 per cent of our congregation feel that abortion should be on request.

**Mr. Cameron (High Park):** Thank you very much.

**The Chairman:** I think we should clarify one statement here by Mrs. Dakers which in its form, I think, was inaccurate.

**Mrs. Dakers:** Where I said 20 days, I meant 20 weeks. Dr. Harley disputes whether this is accurate, but I understood from Mrs. Hefler, who was present when Dr. Whyte made his

statement, and I have down here, that the foetus is not legal for 20 weeks.

**The Chairman:** I do not think it is a question of legality. I had interpreted your original...

**Mrs. Dakers:** No birth certificate or death certificate is needed...

**The Chairman:** I had taken your original statement to mean any child that is born and breathes requires a birth certificate and therefore if it dies requires a death certificate. I think Dr. Whyte was referring to 20 weeks of gestation rather than 20 weeks of life.

**Mrs. Dakers:** I meant gestation. May I clarify that?

**The Chairman:** Yes.

• 1250

**Mr. Rock:** I would like to go back to the addendum to your brief. You have here the statistics of illegitimate births between 1936 and 1965. Can you tell me whether the 1966 statistics are available at this time?

**Mrs. Andrews:** No. The latest statistics published by DBS are for 1965. The 1966 figures are not out yet.

**Mr. Rock:** I see. Do you believe that since the pill has been more readily available in Canada the 1966-1967 statistics will decline?

**Mrs. Andrews:** I think they might level off but this is a personal opinion. We shall have to wait and see.

**Mr. Rock:** Mind you, this is illegitimate births, but in general births I visited one hospital during Christmas where the maternity ward has between 40 and 50 beds for children and their mothers. I was given to understand that there is an average of only five cases now in the maternity ward compared to 40 or 50 in the past. The officials at this hospital were concerned that the pill is really reducing the number of births in Canada. I would not be surprised if the same situation exists in many hospitals across Canada. In view of what I have said, do you not think that the problem that exists today would exist to a much lesser extent in two or three years from now?

**Mrs. Andrews:** No, I do not think the pill will affect the percentage of illegitimate births to a greater extent than it is affecting the legitimate births right across the country.

I draw to your attention Table 6, live births by young teenagers, who are not taking the pill. The pill is not available to them, and they will not have much idea of contraception until we put into effect a broad educational program. In my opinion, the number of births by unmarried mothers are not going to be greatly affected by the pill.

**Mr. Rock:** While your group were studying the proposed abortion legislation, did any members of the medical profession take part in your discussion?

**Mrs. Dakers:** Yes, we had a hospital consultant, we also had a lawyer.

**Mr. Rock:** Were they part of your congregation?

**Mrs. Dakers:** Yes.

**Mr. Rock:** Is there any reason that they are not here with you today.

**Mrs. Dakers:** They are both men. They felt that two women should represent this view because it is more the concern of women.

**Mr. Rock:** I can understand that because of the conclusion that you came to, that it is the right of the woman herself to decide.

**An hon. Member:** We have had enough men before the committee.

**Mr. Rock:** Thank you very much.

**Mr. O'Keefe:** I have just one question, Mr. Chairman. In the few meetings that I have attended, the only concern that has been shown for the unborn baby is that it should be wanted. Is that the only right you say that a baby has.

**Mrs. Andrews:** Which baby?

**Mr. O'Keefe:** The unborn baby. You say that it has the right to be wanted.

**Mrs. Andrews:** Yes.

**Mr. O'Keefe:** Do you agree that it also has the right of inheritance?

• 1255

**Mrs. Andrews:** This would be a question to ask a lawyer because we are not qualified to answer such a question.

**Mr. O'Keefe:** You have certain strong opinions on the rights of individuals; you certainly have strong opinions on the right of the

mother to decide whether or not she wants the baby.

**Mrs. Dakers:** I do not think we are saying that there is only one right. All we are trying to point out is that the right to be wanted is as great as the right to be born, and that is all we are saying.

**Mr. O'Keefe:** I am going to give you a few more rights: the right of inheritance, the right of succession, even the right to sue. Did you know that an unborn baby had the right to sue.

**Mrs. Dakers:** Yes, but you cannot sue until you are born.

**Mr. O'Keefe:** After you are born you cannot live unless your mother looks after you.

**Mrs. Dakers:** No. How is that relevant?

**Mr. O'Keefe:** When a baby is born is he or she not completely dependent on the mother?

**Mrs. Dakers:** Yes.

**Mr. O'Keefe:** You are a mother and you have two or three children. You are not telling me that your baby is completely independent after birth.

**Mrs. Dakers:** No.

**Mr. O'Keefe:** So the baby has the right to succession, the right to inheritance, and the right to sue.

**Mrs. Dakers:** When he is born. He cannot sue from the womb.

**Mr. O'Keefe:** I am trying to establish an equation of rights, and I am serious about this. You agree that a baby has the right to be wanted but you do not agree that a baby has the right to be born. How do you reconcile those two statements? Which has the prior right, the right to life itself or the right to be wanted.

**Mrs. Andrews:** I consider the right to be wanted of greater importance.

**Mr. O'Keefe:** Surely you cannot mean that.

**Rev. David Pohl:** I certainly would say that a child has the right to be wanted.

**Mr. Rock:** How does a child know that it has a right in the first place.

**Mrs. Dakers:** They obviously do. I was talking to a young girl the other day who is

extremely pretty, has the whole of her life in front of her, is quite intelligent, and she said that her mother, when they have arguments and so on, tells her that if it was not for her she would not be here, and the girl replies that she wishes she had not been here. There are many cases like this. It has been brought out in this Committee that people would rather be alive under any condition, and I do not think this is true. I think there are many times that people would rather not have been born because their lives are so wretched.

**Mr. Rock:** Perhaps there are certain times in life when this happens but they soon change their minds.

**Mrs. Dakers:** Oh, come on now.

**Mrs. Andrews:** The girl that was mentioned was very cold and rational about this.

**Mr. O'Keefe:** What makes you confident, as it seems you are, that everyone in this room is a wanted baby.

**Mrs. Andrews:** We are not at all, sir.

**Mrs. Dakers:** But we are here; we cannot do anything about it. We are speaking about people who are not here. Let us help them.

**Mr. O'Keefe:** Even in respect of those outside this room, which ones were wanted and which were not? I think we agree that most conceptions are accidents. How do you define a wanted baby?

**Mrs. Andrews:** We are saying that most births are accidents, and we do not think that a human being should come into this world as the result of an accident; we feel that it should be a planned decision.

**The Chairman:** Do you have a last question, Mr. Choquette?

[Translation]

**Mr. Choquette:** I would like to make a remark just to show the attitude which exists. I will also point out the reason why there is such vigorous opposition to the ideas which you put forth. In the rural regions, it often happens that when women have miscarriages, the foetus is baptized, because of a theory which has been taught to us that at the very moment of conception a soul is breathed into the foetus, and therefore the spirit exists even when the body is being formed. This is a doctrine. These are theories which are being taught and which go back to St. Thomas Aquinas, moreover. They make us laugh today.

• 1300

[English]

**The Chairman:** You are talking specifically about a certain religion.

[Translation]

**Mr. Choquette:** We were taught this, and nowadays we find this rather ridiculous, but it is just to show the context that exists, and that explains why there is ferocious resistance to the ideas which you express and which, basically, could be acceptable even for a Roman Catholic. There are even some theologians who say that it will always be immoral, although it is not necessary for it to be illegal. These are not the reasons which lead me to reject your theories today. It is not for these religious reasons, which I consider somewhat superstitious, but I think that if you make abortion possible on request, we are not ready for this in the present context, because it is evident that it will give rise to all sorts of social disorders. I think that you should insist more—and I am coming back to an idea which has already been expressed—you must first of all insist on sexual education. This is the problem. Progressive sexual education will avoid multiple abortions which could result from legislation such as you advocate.

[English]

**Rev. D. Pohl:** I do not think I would take issue with anything you have said as far as sexual education having precedence is concerned. From a practical point of view you are probably quite right, because we are ready for abortion on request.

On the other hand, in terms of consistency in thinking through moral theology, I still have to insist on not conceding to the state or to anyone the right to decide whether a

woman can have a child. We are operating on a practical and theoretical level and I think both levels are very important.

**Mr. Knowles:** Mr. Chairman, may I express my appreciation of the presentation this morning. You may have looked at me and wondered why I was so silent.

**The Chairman:** No, I understand, Mr. Knowles.

**Mr. Knowles:** I went to the dentist this morning and had four teeth removed—on request.

**The Chairman:** Yes, but on whose request?

**Mr. Knowles:** He suggested it first.

**Mrs. MacInnis (Vancouver-Kingsway):** Yes, but he will be all set for this afternoon.

**Mr. Choquette:** Whatever he is going to say this afternoon might be illegal.

**The Chairman:** He may have the teeth to bite with, but I do not think he has the—

**Mr. Knowles:** Although he took four out he put four back in, so I am still going strong.

**The Chairman:** If there are no other questions I would like to thank The First Unitarian Congregation of Ottawa for coming before us today and presenting their views.

The only other comment I can make at this point is that the meeting is adjourned to the call of the Chair.

As you know, the Canadian Catholic Conference was to appear on Tuesday but this will depend on future events. If they are going to appear, then appropriate notices will be sent to the members.

Thank you very much.

APPENDIX "WW"  
BRIEF  
CONCERNING THE ABORTION  
LAWS OF CANADA

Presented by  
THE FIRST UNITARIAN  
CONGREGATION OF OTTAWA

It is the consensus<sup>1</sup> of our congregation that legal abortions should be available, on request, by the pregnant woman concerned (unconditionally).

This consensus is in agreement with our belief that the relations between the individual and the state in a democratic society should be organized in a manner that permits the individual the maximum freedom to make his or her own decision regarding all matters that affect his or her future. State interference in the life of a pregnant woman in claiming rights over her body is an unwarranted infringement of the democratic values which we believe should be the basis for the conduct of the government of our nation.

In addition, this consensus is in agreement with our belief that every human being should have, as a minimum, the heritage of being born to a mother who freely decided to bear a child that is wanted.

We believe family planning is an essential element of responsible parenthood. It is the individual right of women to decide if and when they will bear children, and the individual right of each child to be wanted.

The bringing of children into the world should be a responsible decision.

In this connection it is important that the supply of information and the sale of articles of contraception be made legal in Canada. A resolution making this request was passed by our Congregation and also the Unitarian Council in the spring of 1967. This was forwarded to the Government of Canada by the Unitarian Council.

It is equally important that where methods of contraception fail, or where an abortion is requested by the pregnant woman that it be available under sanitary and healthful conditions at the earliest possible time.

We urge therefore, that the Standing Committee on Health and Welfare recommend to the Minister of Justice that the Criminal Code of Canada be amended so as to provide that an operation for the termination of pregnancy shall be lawful upon the request in writing by the pregnant female to any duly qualified medical practitioner.

Our recommendation does not impose our beliefs on other individuals or groups. It merely requests that the right to practice planned parenthood be made legal in Canada.

<sup>1</sup> See Appendix "A".

## APPENDIX "A"

The First Unitarian Congregation of Ottawa is an affiliate of the Canadian Unitarian Council which represents 54 churches and fellowships across Canada comprising 15,000 members. Each congregation is autonomous and establishes its own policy. The First Unitarian Congregation of Ottawa, established in 1877, consists of 485 members and approximately 500 adherents.

Unitarian churches are founded upon the principles of individual freedom of belief; the preservation of personal integrity; the search for truth through critical inquiry; the use of the democratic process in human relations; and devotion to the greater good of mankind.

Most members of our congregation are vitally concerned with social problems. Consequently we have a standing committee on Social Responsibility (SRC). This Committee, among other things, has the responsibility of determining the opinion of the congregation on social questions and of speaking for the membership when a consensus is found to exist. A consensus may be obtained by holding a referendum on which a minimum of 15 per cent of the legal members must vote. Of those voting, two-thirds must be in favour to establish a consensus on that item.

At the November 21st meeting of the SRC the question of revision of the laws regarding abortion was discussed. There was considerable interest because of the extensive newspaper coverage of the meetings of the Standing Committee on Health and Welfare. It was felt the congregation were concerned about this problem. Our Minister, David Pohl, spoke on the "Ethics of Abortion" on November 26th. We decided to take the referendum on December 3rd to allow members to consider

the problem rather than asking them to vote immediately following the sermon.

A ballot was designed to determine what grounds, if any, would be considered sufficient for granting an abortion. A compromise was made between simplicity and detail in the questionnaire. In retrospect it seems we could have included a question to determine whether the voter thought consent of the husband should be necessary. Another helpful question might have been whether the consent of parents or guardian should be required in the case of the pregnant child. There were several written-in comments suggesting that these requirements were advisable. In these cases the voting to the question was considered negative even though the voter had marked "yes".

In preparing a ballot our thinking on the question of consent of husband or guardian was that in most cases consent would be given, but if it were not, then the woman's decision should prevail. Requirements for consent would unduly complicate the situation and in some cases delay the decision unnecessarily. The results of the ballot indicate the congregation agrees with this line of reasoning. It was also felt the time at which the abortion is to be performed should be a medical decision.

Although it is the members' votes which determine the consensus, we were also interested in knowing the opinions of non-members. All items were approved by more than two-thirds of each group and it is significant that agreement was so good between members and non-members. We also tallied the voting separately for the 9:30 and 11:15 a.m. services on Item 2.1, regarding abortion upon request from the pregnant woman concerned, and found agreement between the two

groups. Thus the sample size was large enough to indicate quite accurately how the complete congregation would have voted.

The questions asked on the ballot and the replies of members and non-members are shown below:

	Percent Answering Yes	
	Members	Non-Members
1. I am in favour of broadening the grounds for legalized abortion .....	99	99
2. I am in favour of the following grounds for legalized abortion:		
1. All requests from the pregnant woman concerned (unconditional) .....	70	73
2. All requests from the pregnant woman concerned who is unmarried (single, divorced or legally separated) .....	82	83
3. All requests from the pregnant woman concerned whose continued pregnancy would result in serious financial difficulties to the woman or her family .....	84	88
4. All requests from the pregnant woman concerned when she provides reasonable proof that she is unable to provide a satisfactory home for the child or an additional child (we would take this to include incest) .....	93	93
5. All requests from the pregnant mother who already has three or more children .....	79	84
6. All requests from the pregnant woman concerned when there is a 10% chance or greater of a baby being born seriously defective, physically or mentally .....	96	95
7. All requests from the pregnant woman concerned whose continued pregnancy presents an abnormal danger to her physical or mental health (this would include cases of rape) .....	99	96
8. All requests from the pregnant woman who is over the age of 35 .....	77	79
9. All requests from the pregnant child (under the age of 17) .....	88	92

The total attendance at the two services was 301, including several children who of course did not vote. 136 members voted representing 29% of our legal membership and 122 non-members voted. Thus the consensus

of the congregation is that the laws regarding abortion should be modified to legalize abortion in all cases if one is requested by the pregnant woman.

ADDENDUM "A"

Brief Concerning the Abortion Laws  
of Canada

presented by

The First Unitarian Congregation  
of Ottawa

We have no measure, at present, of the mental and physical ill effects suffered by unwanted children and their families in Canada. However some statistics are available that show offences committed against children and families.

This committee has assembled some of these statistics here, as an addendum to our brief, showing the number of such offences committed under the Criminal Code in 1965.

While we cannot relate these figures directly to the number of unwanted children in Canada, we feel that the two problems are correlated. We also feel that the number of these crimes would be reduced if legal abortion on request was available to all women in Canada.

In our opinion, it is also important to take into consideration the many cases of human misery which are never involved in a recorded social statistic.

Taken from Dominion Bureau of  
Statistics Catalogue No. 85-201

"Statistics of Criminal and Other  
Offences" 1965

Figures given are for Canada:

Convictions under <i>Indictable Offences</i>		
Table 13 (p. 86)		
Abandoning Child .....	24	
Neglect in Childbirth and Concealing Dead Body .....	4	
Convictions under <i>Summary Convictions</i>		

Table 15 (p. 108)		
	Male	Female
Duty of Persons to provide necessaries .....	2124	40
Children of unmarried parents .....	655	102
Deserted wives & children's maintenance .....	8020	57
Protection of children ....	1474	1061

<i>Certain Offences</i> Table 17 (p. 129)			
Convictions under Non-support and contributing to delinquency of children			
1956 .....	8,292	1961 .....	9,022
1958 .....	7,916	1963 .....	10,084
1960 .....	8,258	1965 .....	11,974

From D.B.S. Catalogue No. 84-201  
Vital Statistics. Preliminary Annual  
Report 1965.

Table 10 (p. 16) Canada		
	No. Illegitimate Births	Percent of Total Live Births
1936 .....	8,917	3.9
1940 .....	9,822	3.9
1945 .....	13,394	4.5
1950 .....	14,570	3.9
1955 .....	17,034	3.8
1960 .....	20,413	4.3
1963 .....	24,458	5.3
1965 .....	28,078	6.7

Table 6 (p. 11)		
Live Births by Age of Mother		
	Births	Illegitimate
11 yr. ....	1	1
12 yr. ....	3	3
13 yr. ....	33	33
14 yr. ....	159	132
15 yr. ....	799	538
16 yr. ....	2,909	1,428
17 yr. ....	7,059	2,373

Other Relevant Information Under <i>Indictable Offences</i> (from Criminal and Other Offences)		
Table 13 Table 14		
Incest .....	51	1
Rape .....	71	19
Rape, attempt to commit ..	11	9

HOUSE OF COMMONS  
Second Session—Twenty-seventh Parliament  
1967-68

STANDING COMMITTEE  
ON  
**HEALTH AND WELFARE**

*Chairman:* Mr. HARRY C. HARLEY

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 24

TUESDAY, MARCH 5, 1968  
THURSDAY, MARCH 7, 1968  
TUESDAY, MARCH 12, 1968

Respecting the subject-matters of

Bill C-122, An Act to amend the Criminal Code (Abortion);  
Bill C-123, An Act to amend the Criminal Code (Birth Control);  
Bill C-136, An Act concerning the Termination of Pregnancy by  
Registered Medical Practitioners.

INCLUDING

- (a) Second Report to the House
- (b) List of Witnesses Heard
- (c) Index of Briefs, Resolutions, Statements and Correspondence
- (d) List of Documents Tabled and Not Printed
- (e) List of Appendices

WITNESSES:

*Representing The Canadian Catholic Conference:* Most Reverend Remi De Roo, D.D., Bishop of Victoria, B.C.; Mr. Bernard Daly of Ottawa, Director, Family Life Bureau; Reverend E. J. Sheridan, S.J., Professor of Moral Theology, Chairman of the Faculty, Regis College, Willowdale, Ontario; Mr. André Naud, p.s.s., Professor, Faculty of Theology, University of Montreal; and Reverend Jean-Marie Lafontaine, Professor, Faculty of Social Sciences, University of Montreal.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1968

STANDING COMMITTEE

ON

HEALTH AND WELFARE

*Chairman:* Mr. Harry C. Harley

*Vice-Chairman:* Mr. Gaston Isabelle

and

Mr. Allmand  
Mr. Ballard  
Mr. Brand  
Mr. Brown  
Mr. Cameron  
    (*High Park*)  
Mr. Chatterton  
Mr. Cowan  
Mr. Enns

Mr. Forrestall  
Mr. Howe (*Wellington-  
Huron*)  
Mr. Knowles  
Mr. Laverdière  
Mr. MacDonald (*Prince*)  
Mrs. MacInnis  
    (*Vancouver-  
Kingsway*)

Mr. Matte  
Mr. O'Keefe  
Mr. Orange  
Mr. Rochon  
Mr. Rock  
Mr. Rynard  
Mr. Simard  
Mr. Stanbury—(24).

(Quorum 13)

Gabrielle Savard,  
*Clerk of the Committee.*

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CORRIGENDUM

PROCEEDINGS No. 17—Thursday, February 1, 1968

*In the Minutes of Proceedings and Evidence—*

Page 568, first paragraph, line 11 should read:

“on the other hand, the certification of deaths is”

## REPORT TO THE HOUSE

WEDNESDAY, March 13, 1968.

The Standing Committee on Health and Welfare has the honour to present its

### SECOND REPORT

On June 27 and 28, 1967, the subject-matters of the following bills were referred by the House of Commons to the Standing Committee on Health and Welfare for its consideration and report:

Bill C-122, An Act to amend the Criminal Code (Abortion),

Bill C-123, An Act to amend the Criminal Code (Birth Control),

Bill C-136, An Act concerning the Termination of Pregnancy by Registered Medical Practitioners.

From June 29, 1967 to March 12, 1968 inclusive, your Committee has held 29 meetings, has received 35 briefs, numerous resolutions, petitions, telegrams and letters, has heard 93 witnesses from legal and medical associations, church groups and many other organizations and individuals.

On the 19th of December 1967, your Committee submitted an interim report and recommended as follows:

(1) That section 209(2) of the Criminal Code be amended to allow therapeutic abortion under appropriate medical safeguards where a pregnancy will seriously endanger the life or the health of the mother;

(2) That sections 209, 237 and 238 of the Criminal Code be amended as required, so that their interpretation will not give rise to ambiguous situations;

(3) That the Committee on Health and Welfare continue its hearings into the subject of abortion, including the experience of other countries.

Since that date, the Minister of Justice has introduced Bill C-195 in the House of Commons, in which is included an amendment to Section 237 of the Criminal Code pertaining to abortion. The operative section is in a new subsection (4) clause (c) as follows:

“(c) has by certificate in writing stated that in its opinion the continuation of the pregnancy of such female person would or would be likely to endanger her life or health, and”.

In comparing the recommendations of the interim report and the proposed amendments in Bill C-195, the Committee feels that the wording of the Committee report is clearer. As well, the words “under the appropriate medical safeguards” of the interim report are not necessary, as these safeguards are set up in the proposed Criminal Code amendments.

There has been a great deal of concern over the definition of health in the proposed amendments and in the Committee's interim report, both mention-

ing that the mother's health should be endangered. The Committee in its consideration intended health to mean physical and mental health and not the wider definition given to it by the World Health Organization. The Committee feels that a simple amendment to the proposed legislation should establish that a clear and direct serious threat to the mother's health must be present.

Your Committee has heard, it believes, representative evidence from the many sides of the abortion question. Little statistical evidence has been received for several reasons:

- (1) where abortion is illegal, no reliable statistics are available;
- (2) where abortion is legal, full statistics are not yet available although they have been requested.

Your Committee feels that the subject-matter of abortion should remain with the Committee for further study.

Your Committee therefore recommends:

(1) That the proposed amendment to section 237 of the Criminal Code in Bill C-195, be amended in Subsection 4(c) to read:

"(c) has by certificate in writing stated that in its opinion the continuation of the pregnancy of such female person will endanger the life or seriously and directly impair the health of the mother, and";

(2) That section 209 of the Criminal Code be amended as proposed in Bill C-195;

(3) That the Committee on Health and Welfare retain the subject-matter of abortion and be empowered, if deemed necessary, to engage personnel for further research and study.

A copy of the relevant Minutes of Proceedings and Evidence (*Issues Nos 1 to 24 inclusive*) is tabled.

Respectfully submitted,

HARRY C. HARLEY,  
*Chairman.*

## MINUTES OF PROCEEDINGS

TUESDAY, March 5, 1968.

(27)

The Standing Committee on Health and Welfare met this day at 11.12 o'clock a.m. The Chairman, Dr. Harry C. Harley, presided.

*Members present:* Mrs. MacInnis, Messrs. Allmand, Ballard, Brown, Chatterton, Cowan, Enns, Forrestall, Harley, Howe (*Wellington-Huron*), Isabelle, Knowles, MacDonald (*Prince*), Matte, O'Keefe, Orange, Rochon, Rock, Simard—(19).

*Other members present:* Messrs. Cashin, Choquette, Klein.

*In attendance: Representing the Canadian Catholic Conference:* Most Reverend Remi De Roo, D.D., Bishop of Victoria, B.C.; Mr. Bernard Daly of Ottawa, Director, Family Life Bureau; Reverend E. J. Sheridan, S. J. Professor of Moral Theology, Chairman of the Faculty, Regis College, Willowdale, Ontario; Mr. André Naud, p.s.s., Professor, Faculty of Theology, University of Montreal; and Reverend Jean-Marie Lafontaine, Professor, Faculty of Social Sciences, University of Montreal.

The Committee resumed consideration of the subject-matter of Bills C-122, C-123 and C-136.

The Chairman informed the Committee of the correspondence and other documents received.

*Agreed,*—That the following be printed as appendices to this day's proceedings:

1. Letter dated February 21, 1968, from Dr. W. A. Blair, M.D. of Ottawa, Secretary of the Canadian Psychiatric Association. (*See Appendix "XX"*).
2. Letter dated February 7, from the *Corporation du Centre d'Action Familiale* of Sherbrooke, Que. (*See Appendix "YY"*).
3. Letter of February 12, from the Hospital Association of the Province of Quebec enclosing resolution approved by the Board of Directors of the Association and historical background of the Association. (*See Appendix "ZZ"*).
4. Brief from Mr. R. I. Duncan of London, Ontario, Assistant Professor—Biophysics, University of Western Ontario. (*See Appendix "AAA"*).
5. Brief from Mr. P. Adams of Montreal. (*See Appendix "BBB"*).
6. Brief from the Hull-Gatineau Action Committee against Abortion. (*See Appendix "CCC"*).

The Chairman thanked the delegates of the Canadian Catholic Conference for appearing before the Committee and introduced Most Reverend Remi De Roo, who introduced the other members of the delegation.

Most Reverend De Roo made opening remarks.

*Agreed*,—That the Statement of the Catholic Bishops of Canada on Abortion be printed as an appendix to this day's proceedings. (See Appendix "DDD").

The delegates were severally questioned.

The questioning concluded, the Chairman thanked the representatives of the Canadian Catholic Conference for their presentation and for having explained the stand of the Conference on the question of abortion.

At 1.55 o'clock p.m. the Committee adjourned to 11 o'clock a.m. Thursday, March 7th, for an *in camera* meeting.

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THURSDAY, March 7, 1968.

(28)

The Standing Committee on Health and Welfare met in camera this day at 11.15 o'clock a.m., the Chairman, Mr. Harry C. Harley, presiding.

*Members present*: Mrs. MacInnis, Messrs. Allmand, Cowan, Forrestall, Harley, Isabelle, Knowles, Laverdière, Matte, O'Keefe, Orange, Rock.

*Agreed*,—That the submission of Mrs. Sally-Ann Kerman, of the Society for the Prevention of Cruelty to Man, be printed as an appendix to the Committee's proceedings. (See Appendix "EEE").

The members of the Committee had a general discussion on the possible future course of action to be followed by the Committee.

At 12 o'clock noon, the Committee adjourned to the call of the Chair.

---

TUESDAY, March 12, 1968.

(29)

The Standing Committee on Health and Welfare met in camera this day at 11.15 o'clock a.m., the Chairman, Mr. Harry C. Harley, presiding.

*Members present*: Mrs. MacInnis, Messrs. Allmand, Ballard, Brand, Brown, Chatterton, Cowan, Enns, Forrestall, Harley, Howe (Wellington-Huron), Isabelle, Knowles, MacDonald (Prince), Matte, O'Keefe, Rock, Ry-nard, Stanbury—(19).

The Committee resumed consideration of the subject-matter of Bills C-122, C-123 and C-136.

*Agreed*,—That the following documents be printed as appendices to the proceedings of this Committee:

1. Letter dated March 8, 1968, from the Office of the Secretary of State for External Affairs and summary of the information obtained to date from different countries. (See Appendix "FFF").

2. Letter dated March 1, 1968, and enclosures, from Mr. Philip L. Cooper, Ottawa Representative of the Emergency Organization for the Defence of Unborn Children. (See Appendix "GGG").
3. Letter dated March 8, 1968, from the Corresponding Secretary of The National Council of Women of Canada. (See Appendix "HHH").
4. Letter dated February 7, 1968, from Dr. Henry FitzGibbon, M.D. of Penticton, B.C., and his submission to the Committee. (See Appendix "III").

*Agreed*,—That the following documents, supplied by the Office of the Secretary of State for External Affairs, be filed with the Clerk for the information of the Members:

1. "Zdravotnická Statistika CSSR"—Potraty 1966, Praha 1967—Statistics of Abortions in Czechoslovakia.
2. Act No. 68 of December 19, 1957 on Artificial Termination of Pregnancy—The National Assembly of the Czechoslovak Republic.
3. Eugenic Protection Law of Japan (Law No. 156 of July 13, 1948) with Amendments.

The Committee discussed its activities and considered a draft report which was amended and adopted *on division*.

The Chairman was instructed to present the said report as the Committee's Second Report.

At one o'clock p.m. the Committee adjourned to the call of the Chair.

Gabrielle Savard,  
Clerk of the Committee.



## EVIDENCE

(Recorded by Electronic Apparatus)

**Tuesday, March 5, 1968.**

• 1114

**The Chairman:** Ladies and gentlemen, we now have a quorum and would like to start today's proceedings. Before we start I would like to apologize to our witnesses because we have a fair amount of procedural matters with which I would like to deal first.

As you are all well aware, this is the last open meeting of this Committee on the subject of abortion. I might mention in passing that I have reserved a room for Thursday so the Committee may meet in camera to decide on our future activities.

First of all, I received a letter from the Honourable Paul Martin, Secretary of State for External Affairs. I wrote to Mr. Martin asking the assistance of his department in getting statistics concerning abortion from other countries. He replied saying they would be pleased to do so and as soon as the replies are available in the form in which I asked for them he will send them to the Committee.

We received a letter from Dr. W. A. Blair, the Secretary of the Canadian Psychiatric Association, who informs the Committee that the Board of Directors of the Canadian Psychiatric Association has established a new committee to study the psychiatric aspects of therapeutic abortion. In his letter Dr. Blair gives the terms of reference of the committee and the names of those appointed to it. The letter also expresses the willingness of the Canadian Psychiatric Association to be of assistance to the Committee within its capabilities.

• 1115

There is also a letter from the Centre of Family Action of Sherbrooke, Quebec, informing the Committee of the position of their organization.

There is a letter from the Hospital Association of the Province of Quebec enclosing a resolution approved by the board of directors of their association and also a historical background of the association.

There is a private brief from Mr. R. I. Duncan, Assistant Professor of Biophysics at the University of Western Ontario; a private brief from Mr. P. Adams of Montreal and a brief I received this morning from the Hull-Gatineau Action Committee Against Abortion.

Is it agreed that all of this material be printed as an appendix to today's proceedings?

**Some hon. Members:** Agreed.

**Mr. Chatterton:** Mr. Chairman, when you referred to the Secretary of State for External Affairs did you say that you requested information on certain questions that were asked?

**The Chairman:** Yes, questions concerning abortion; statistics, and so on.

**Mr. Chatterton:** Did you pose a number of questions to which you wanted answers? I think it is very important that we know the type of information you want.

**The Chairman:** I think at an earlier meeting we read into the record the letter that I sent to him. I have a copy of it here. We asked for statistics from various countries on abortion complications. I think most members have seen the report from Japan and the one from Sweden on this matter, but we asked for further information from other countries.

There were copies of other correspondence which I received as Chairman of the Committee which were sent through the mail to every member of the Committee. For the Committee's information, up to this morning the Committee has received 252 private submissions, telegrams and letters signed by one or more persons who favour liberalization of the abortion law in various degrees; 238 private submissions, telegrams and letters signed by one or more persons who express their opposition to the liberation of the law, and 8 organizations that represent 7,378 persons also expressed their opposition to widening the law. These are all in the Clerk's office if any members of the Committee wish to see them.

Of course it is impossible to make them all part of our record.

**Mr. O'Keefe:** Mr. Chairman, I suggest there is a vast difference between one person who signed a telegram and perhaps 1,000 persons who signed a telegram. Is there any way of knowing how many people signed petitions or telegrams?

**The Chairman:** I was going to add one further short statement that may give you the answer you wish. The Committee has been informed that petitions signed by 49,174 persons opposing liberalization of the law were addressed to the Prime Minister and to the Minister of Justice. This is the total number of signatures of which we are aware. I do not think we have any record of the total number of signatures of those who favour liberalization other than the fact that 252 private submissions, telegrams and letters were signed by one or more persons.

The Clerk said that none of the letters favouring liberalization contained more than four signatures.

Are there any other comments on this?

If there are no other comments, I would like to introduce the witnesses appearing before us today who represent the Canadian Catholic Conference. We would like to thank them for coming. We welcomed them earlier. I want to introduce the Most Reverend Remi De Roo, the Bishop of Victoria, who heads the delegation. I will ask him to introduce the other members of his delegation.

**The Most Reverend Remi De Roo, D.D. (Bishop of Victoria):** Mr. Chairman, thank you for your kind invitation. May I be permitted to present the members of our committee who are here with me. To my extreme right is Father Sheridan, Professor of Moral Theology at Regis College in Toronto; next to him, Abbé Jean-Marie Lafontaine, Professeur, Faculté des Sciences Sociales, Université de Montréal, (Professor of Social Theology at the University of Montreal); Monsieur André Naud, Professor of Theology at the University of Montreal; and immediately beside me, Mr. Bernard Daly, the Director of the Family Life Bureau of the Canadian Catholic Conference.

Dr. Maloney, whose name also appears on your list, was unable to attend.

• 1120

**The Chairman:** Before we proceed, is it agreed that the pastoral letter that the

Canadian Catholic Conference sent to each member of the Committee appear as part of today's records?

**Some hon. Members:** Agreed.

**Most Reverend Remi De Roo:** Mr. Chairman, we are here to stress the respect that must be paid to human life in the matter you are studying. You are expected to write a law that in a few words must solve the wide range of problems. The factors to be considered pile up. Their inter-relation becomes increasingly complex and confusing, and details sometimes overshadow general principles. We hope that you will be helped by our emphasizing that respect for life and service of life are most basic of all. There can be no truly human solution without these.

In preparing a statement originally intended for your committee, a committee of bishops consulted theologians, doctors, sociologists, lawyers and married couples. Draft texts were sent to all 100 Canadian Bishops, asking for their comments and their votes as to whether they found the text acceptable, not acceptable, or wanted to make corrections. A number of these bishops in turn consulted local groups before they replied. This somewhat slow but democratic process culminated in a final meeting of the drafting committee on December 20. This was the day after your Committee's interim report, and a last-minute effort was made to take in reference to your report. The bishops' committee finished its work and then dispersed; and the next day the bill of amendments to the Criminal Code was made public. Once we had a chance after the Christmas rush to take a second look at our statement, some bishops questioned the submission of a document that made no reference to the bill in Parliament. Consequently, the bishops' executive agreed that this question was well taken; but they also agreed that the drafting committee could not be reconvened and the revised text circulated and approved in French and English in time for our scheduled appearance of January 23. At the same time we Bishops were placed under a new pastoral obligation to speak to members of the church about a subject that had moved from the stage of being under study in your Committee to the stage of actual proposed legislation before Parliament. Bishop Alexander Carter, our Chairman,

explained this in a letter to you. The pastoral statement to which we gave top priority took until February 7 to prepare for publication. By that time discussions were already under-way for a rescheduled appearance here today.

In the drafting of the pastoral statement two main guidelines were followed. The first was the statement that had been prepared for your Committee but could not be redrafted before January 23. The pastoral was to be in continuity with that statement which the bishops had approved; and, secondly, the pastoral was to comment on the Bill before Parliament. You received copies of this pastoral when it was published. We would like to stress therefore that we are not presenting it to you today, nor are we here primarily to discuss our pastoral. We are here on your invitation to try to help with a complex and difficult question. We come therefore in a spirit of dialogue. That is, we do not feel that we have the whole answer. We do not want to impose a particular point of view. But we come with a conviction that abortion touches on meanings and values which we believe cannot be ignored if a truly human solution is to be found. So our intention is to place these considerations before you, amid the many other considerations you have heard. Our aim is to help and we are grateful for your invitation.

• 1125

The decision on a solution we recognize as your responsibility. But we consider it our responsibility to urge that the problem be considered wholly, in its entire context, as opposed to any partial or ill-considered quick solutions. What we bring is not just the private moral opinion nor an isolated specialized point of view. The church speaks the views of theologians, it is true, but also the views of doctors, lawyers, social workers, parents, hospital officials, men and women who are deeply rooted in the stuff of Canadian life, whose insights are concrete and relevant to the real situation and at every level of society. A number of these have spoken to you directly. Indeed, as bishops, our concern with abortion is global in much the same way as the concern of this Committee is global. We urge that this complex question be approached in all its complexities. Some aspects of this question that we would like to stress here have already been well presented to you by others not necessarily identified with our church.

More precisely, then, we urge the three following points. The first is respect for life. We are much concerned that a too-open health clause may result in widespread disrespect for and assault on the life of the unborn child. Second, we wish to stress the need for research, and we want to emphasize the moral obligation of lawmakers as promoters and defenders of the common good to study most carefully by all available sciences the possible consequences of changes in the law. Linked with this, we point to the obligation of lawmakers to constantly restudy the consequences of their decisions—that is, after a certain period, as in the case of capital punishment. And third, we emphasize the need for social reform, and lay stress once again on the obligation not only of legislators but of all citizens to strive to end the socioeconomic causes of unwanted children in such ways as through better housing, full employment, aid to families, education for responsible parenthood and so on, as outlined in our pastoral statement.

So once again in thanking you for your invitation may we say we are here simply to bring our little contribution in the spirit of dialogue to help as best we can with the grave responsibility that rests upon your shoulders.

**The Chairman:** Thank you very much, Most Reverend Bishop De Roo. The meeting is now open for questioning. May I point out to the Committee that we have a large number in attendance today and I will try to limit everyone's question in the first round to five minutes. Mr. Allmand, will you proceed.

**Mr. Allmand:** Bishop De Roo, critics of the Catholic church's position on abortion state that the Church is not fully consistent with itself and as evidence of this they say that the Church says that the foetus is a human being and therefore deserves the same respect as a human being once it is born. But they say, on the other hand, that the Church does not give this foetus, when it dies because of a miscarriage, the same sacramental rites and treatment as a baby that may die after it is born, after it comes out of the womb.

Would you mind commenting on this? What is the position of the Church with respect to sacraments when a foetus dies through a miscarriage? Do they have the same funeral rites,

last rites of the Church, and baptism? Do they treat the foetus when it dies in the same way as a baby that dies after birth?

• 1130

**Bishop De Roo:** The general principle is one of the greatest respect for the foetus at all stages. However, you are referring to a rather complex moral issue which has been treated in a variety of circumstances, and possibly we might ask some of our theologians here if they would care to comment on the details of that point. Father Sheridan, would you like to express your thoughts?

**Reverend E. J. Sheridan, S. J. (Professor of Moral Theology, Chairman of the Faculty, Regis College, Willowdale, Ontario; Canadian Catholic Conference):** The law of the Church with regard to a foetus is that unless the foetus is evidently dead it is to be baptized, conditionally at least. So the Church is quite consistent in its view that here we are dealing with that which is very probably human life, and that consequently the sacrament is to be conferred unless it is clearly evident that the sacrament is invalidly conferred because the foetus is already dead.

The foetus in most cases, wherever it is possible, is also given a burial in consecrated ground. A full funeral rite is not generally held; but then it is to be understood that the funeral rite has never been looked upon as primarily and essentially of benefit to the dead person. Obviously there are prayers for the dead in the funeral service, but it is also largely a rite of consolation and help to the bereaved who have lost someone very dear to them, and this, of course, does not obtain generally in the case of a foetus. There is not that paternal attachment, or maternal attachment to a foetus that there is to a child who has been born and has grown up.

But the essential rite of baptism is conferred in every case where it might possibly be considered to have a validity or real effect. I do not know if that answers the question sufficiently.

**Mr. Allmand:** For the time being, Father Sheridan. One further point on the same issue. These critics also say that the church changed its position. I believe that up until about 1870 or 1880 the Church believed that there was something like a 60 or 40-day rule whereby after 60 days from the conception or

40 days from the conception, human life started; but that before that period there was not human life, and therefore abortions were considered in a different light if they were performed before that period. They say that if the Church has changed its position, or had that position for hundreds of years, and after 1800 or whatever it was—I believe in the late nineteenth century—changed its position, is it not an indication that this is not that dogmatic and that we must be more tolerant of other views with respect to the beginning of life?

**Rev. E. J. Sheridan:** With regard to the position of the Church as to the time of animation, that is, the time when this incipient life actually becomes human, for a long period of time the Catholic Church, along with many other groups including the Mohammedans and so on, held that animation did not take place immediately on conception.

This was a view inherited almost completely from Aristotelian biology, which is simply without basis in fact. It was the wisdom of the time but it is certainly seen to be without a biological foundation at present. So it was generally believed that animation did not take place immediately upon conception. Therefore there was something of a difference between an abortion perpetrated before 40 or 60 days, and an abortion afterwards. The latter was simply characterized as homicide; the former was not homicide but was still looked upon as gravely criminal since it was the extinction of a process towards life.

• 1135

This view began to be recognized as without basis in sound biology much earlier than the nineteenth century. It was questioned by Italian physicians in the early eighteenth century, and gradually the common doctrine prevailed, that animation took place at conception; in other words, that from the moment of conception we are dealing not merely with life but with human life. This has been by far the majority opinion for the last couple of centuries.

**Mr. Allmand:** Mr. Chairman, I have other questions but I will wait until the others have asked theirs.

**Mr. Chairman:** Mr. MacDonald.

**Mr. MacDonald (Prince):** Bishop De Roo, we are very grateful for your appearance here

today and particularly your opening remarks, where you indicated that you had come in a spirit of dialogue, not to impose your own particular position but to explore that position with the members of the Committee in the hope that we might further move towards a satisfactory decision by the Committee.

Since we are being limited very wisely by the Chairman to five minutes, I am going to come straight to what I feel is the crux of our difficulty here today and ask you whether or not there has been any consultation between the various Churches over this question. I am thinking in particular between the Roman Catholic Church, the Anglican Church, the United Church and the Presbyterian Church, because these Churches have all made appearances before this Committee.

**Bishop De Roo:** You may recall that at a previous appearance we started from the separate positions of each Christian Church and then gradually worked into a consultation and finally put in a combined appearance. For the moment this has not yet occurred on this question; however, a point I noticed in reading through the minutes of your proceedings here is that that there are substantial areas of agreement between the different Christian Churches. We may wish to return to that point later, and it is not impossible that we might work towards a further study together of this issue also. I for one would be very happy to see it, but I would not be in a position to commit anyone to that at this stage.

**Mr. MacDonald (Prince):** I raise this because I think, as you are well aware, there is or seems to be at least, a fair disagreement between your position as enunciated in the pastoral letter and the position that is placed before us by these other three Churches. Perhaps it might be useful to quote the nub of each of these presentations to point up in contrast the difficulty that we are faced with. The United Church said in its presentation that:

... at its 22nd General Council, 1966 requested a revision of the Criminal Code to permit therapeutic abortion "when continuance of pregnancy is likely to endanger the mother's life or seriously impair her physical or mental health."

That is on page 1 of their brief. On page 4 of the Anglican presentation they said:

We believe that it should be legally permissible to terminate pregnancy when

either the life or health of the expectant mother is seriously threatened,

and they go on to outline some conditions with regard to that. And the Presbyterians said on page 2 of their brief:

... be it resolved that the General Assembly ask Parliament to amend the law with regard to abortion to make therapeutic abortion lawful, when the continuance of a pregnancy endangers the mother's life or is likely seriously to impair her physical or mental health, when authorized by a panel of qualified medical authorities.

We who are alive in the year 1968 are fortunate to live in an era of ecumenical rapprochement in which there has been a tremendous amount of not only dialogue, but decision-making that has gone on among the various church bodies. We in this Committee are faced with a great division of opinion in the country, and that division of opinion unfortunately seems to fall very largely on religious grounds, although there are some exceptions. I wonder how you see this dilemma being resolved by the Committee and whether or not it is possible for this Committee to come to a decision at this point, in light of your own earlier remarks, without having the total point of view.

• 1140

**Bishop De Roo:** I would like to comment on two points that you have raised. The first is the matter of ecumenism and the other is the matter of the different stands. I think the vast majority of recognized ecumenists will support me when I say that ecumenism is not a matter of compromise. On the contrary, the worst form of ecumenism is that form of popular self-deceit whereby we pat one another on the shoulder and say, "We are all good guys together", and avoid the real issues that divide us. Honesty, truth and charity require that we first recognize the fact that however much we may work or pray for the day when all churches may become one, we are not one at this time. In true ecumenism, then, the emphasis must be on truth. Truth in charity, but truth nonetheless. I think we have a growing climate of ecumenism in Canada. It is still somewhat superficial but it is moving toward the real issues.

The other point is the question of disagreements. The items you quoted are basically conclusions. I recognize the fact that on the surface they appear to place us in contradictory situations. However, I think if you look beyond these to the principles on which these conclusions are based you will find vast areas of agreement and many positive statements. In fact, I think Mr. Bernard Daly may wish to make some comment on that. He has looked through some of these documents.

**Mr. Bernard Daly (Director, Family Life Bureau, Canadian Catholic Conference):** I was just going to say, Mr. MacDonald, that in all respect I think it could be questioned whether in these points that you selected you have really singled out the nub of the question. It is one part of the problem. However, you heard, for example, Dr. Mongeau, say here that he thought just concentrating on the changes in the abortion law as such was too easy a solution.

**Mr. MacDonald (Prince):** Pardon me, Mr. Daly, but I do not think Dr. Mongeau appeared with any of these three groups; his was another presentation.

**Mr. Daly:** I just want to refer to it, though.

**Mr. MacDonald (Prince):** Fine.

**Mr. Daly:** Certainly there are people who suggest that just a change in the abortion laws is the answer, but he was suggesting that it would be too easy a solution to change the law without doing something to ensure that the need for abortion will be diminished. As you know, he went on to develop the social context of this point, and I think you in particular appreciated that.

While one can, as you did, point out the differences of the churches on the change of the abortion law as such, you will find—and I think this is what we have to explore first of all ecumenically—substantial agreement on the kind of social program that will move in the direction that Dr. Mongeau said is your real problem. Whether you accept his or somebody else's definition of the real problem, I am saying that the Committee has at least several options as to what is the real problem. If you accept at all the broad social context of doing something to eliminate the need for abortion, to eliminate the phenomenon of unwanted children, then you will find among the church briefs a very broad area of

agreement on education, social programs, building up counselling services, and so on.

**Mr. MacDonald (Prince):** I think I have well used my time. I will pass for the next round, Mr. Chairman. Thank you.

[Translation]

**Mr. Chairman:** Doctor Isabelle?

**Mr. Isabelle:** I want to thank you for appearing before the Committee. I think your comments will be most useful to us in preparing the final draft of the bill.

I know that bill C-195 concerning abortion has been criticized a great deal, and I, personally, do not agree with the bill in its present form. However, something had to be done because the Canadian Bar Association, the Canadian Medical Association and the Canadian Physicians' Association made recommendations to the Minister of Justice requesting that the Criminal Code be amended in such a way as to protect doctors who sometimes have to perform abortions.

You have read our provisional report. You know that today anybody can, under the Criminal Code, perform an abortion. The Committee recommends—and I would like you to comment on this—that section 209 of the Criminal Code be amended so as to permit therapeutic abortions, under medical advisement, when the pregnancy gravely endangers the life or health of the mother. Gravely endangers the life or health of the mother. The protests we have received concerned mainly the question of health, apparently. As far as the question of health is concerned, our provisional report states clearly "gravely endangers".

Now, my question is this: who, in your opinion, can determine the turning point when not only the health but the very life of the mother is gravely endangered?

**Bishop De Roo:** You are asking an extremely difficult question. I would say this is a matter for the doctor to decide, and I would not even attempt to give my opinion on this.

**Mr. Isabelle:** But when should the person who is authorized to perform an abortion—we will not go into direct or indirect abortions—because the life of the mother is gravely endangered, when should the doctor sit back and say: "No, she is not pale enough, her blood pressure is not low enough, she is not

near enough the point of death, we will not perform the abortion yet". That is why I question the relevancy of the term "gravely endanger". But here is why it has been included in the interim report—which I think is a very good report—apart from what bill C-195 actually says: in view of the importance of the proposed change, it is normal that the Church should participate in the drafting of any legislation designed to protect the lives of individuals, even when they are at the foetus stage. Consequently, I wonder whether the Catholic Church would accept this interim report in its present form, considering the statements of St. Thomas Aquinas on foetus animation to which Father Sheridan referred earlier. What about the statements of St. Thomas Aquinas, Alphonse de Liguori, St. Albertus Magnus? Should we pretend to ignore them?

**Bishop De Roo:** You have raised three or four questions. First, there is of course the question referring to my position here, as a representative of the bishops. Even on a medical matter, the bishops have the responsibility of stating what is, in their opinion, the teaching of Christ as seen through tradition and the life of the Christian Church. Then, there is the moral problem facing the physician. And, if I may, I will let our two moralists here, who have not had any opportunity of saying anything yet, to deal with this matter.

Finally, there is the problem of deciding what makes a good piece of legislation. And, here again, bishops, moralists and others may have their own opinion as to what will be the effect of a bill, but in the final analysis the responsibility rests with the legislators because it is up to them to decide what will be a good legislation for the country. Now, if I may, I will ask either Fr. Naud or Fr. Lafontaine, to give the views of the moralist.

**Rev. André Naud (Professor of theology, University of Montreal):** There are several facets to your question. Now, the last part of the question refers to St. Thomas' thought on foetal animation and to the opinion of other doctors of the Church. Well, today the stand taken by the Church does not stem from the views of St. Thomas or any of those doctors, but is based on the opinion of practically all the scientists of the world on this matter.

You are already familiar with the report of the high committee of France on abortion. On

this matter of animation of the human foetus, the report states that all scientists hold the view that it is a continuing process in the child from the moment of conception to adult age. So, there is this continuity. There is also an entity which has autonomy that is also, no doubt, very much dependent on the child. Even after birth it is dependent, although it is then a different dependence.

Therefore, the position of the Church is based on the consensus of opinion of scientists rather than on the opinion of ancient doctors. The Reverend Father, a moment ago, referred to this: No Aristotelian deductions, etc., regarding foetus animation.

You have also raised the question of the doctor's perplexity when he is faced with determining if it is a case of life and death. I wonder if any legislation could ever eliminate completely the doctor's perplexity, any possibility of perplexity, in borderline cases.

In any case, we want the law to be written in such a way as to protect the life of the foetus as much as possible. In some cases, it may of course be extremely difficult to decide what to do. But, on the basis of those extremely rare cases, would it be justified to broaden the Act as much as possible? Furthermore, should it be broadened extensively, any perplexity on the part of the doctor would obviously be eliminated because he would be allowed to go right ahead, but would the respect due the life of the foetus then be safeguarded?

**Mr. Isabelle:** That is exactly what we want: to reduce any cause for perplexity in the legislation, mainly to protect the doctor. No mention is made of the medical profession under the heading of therapeutic abortions. To have the matter spelled out in the legislation is precisely our purpose. Perhaps we did not go about it properly, but that is what we are looking for. And that is why we are asking for your advice in this matter. You will agree that at the moment it is rather ambiguous, especially, as you mentioned, when the doctor is faced with a borderline case. If you admit the existence of borderline cases, you will agree that the one who has to decide what to do should find some protection under the legislation. That is what we are seeking.

**Rev. Lafontaine:** As to the part of your question dealing with good legislation, I appreciate that you want to eliminate the

doctor's perplexity, but, as my colleague said, I am under the impression that, in this matter, perplexity cannot be eliminated completely. On the other hand, you are looking at it from a medical point of view, but it must also be considered from a social point of view.

As mentioned in the document—you have received the pastoral letter—the first thing to consider is the educational nature of the legislation and the influence it will have on the people collectively in regard to respect of life.

The second thing is that certain statistics should not be overlooked, although their accuracy may not be easy to prove. Take, for instance, the survey made in two New York hospitals. From 1943 to 1963, the number of abortions made for health reasons, more particularly for psychiatric reasons, increased from 13 per cent to 87.5 per cent. Medical offices surveyed in the United States indicate two extremes: in some hospitals, with 2,700 births a year, there will not be one single abortion; in others, there is one in every 36 births. This means that the appraisal criteria of the medical offices vary considerably. I have just mentioned extremes, obviously. And that is why, when you speak of bill C-195 of the Criminal Code which says:

Would endanger or likely endanger the life or the health of the mother.

The consequences, and not only the medical viewpoint and the perplexity of the doctor, should be appraised, considering the wide variety of criteria which doctors' offices or medical offices may use.

And secondly, consider, as far as the population is concerned, the mentality which will develop in regard to respect of life. All those elements form an entity when considering what would make a good piece of legislation.

In other words, a good legislation cannot be restricted to removing any perplexity the physician may have in borderline cases, but should also consider the whole of the people and all the factors involved, including those I have just mentioned in passing.

**Bishop De Roo:** There is no doubt about it, the doctor has difficult decisions to make. However, you have heard Dr. Gray tell the Committee that no doctor who has openly performed an abortion in a public hospital has ever been sued or taken to Court.

**Mr. Isabelle:** Just one comment, Mr. Chairman. I can see that it is just as hard to find out how to draft a piece of legislation to protect the doctor in borderline cases as to answer this question: how many angels are there on the tip of a pin?

**Bishop De Roo:** You have all my sympathy in this most difficult task of trying to settle this matter by legislation.

[English]

**The Chairman:** Mr. Knowles?

**Mr. Knowles:** Mr. Chairman, I am sure I am just stating the obvious when I say how much we appreciate the manner in which Bishop De Roo and his colleagues have appeared before us this morning. You not only said that you came to engage in dialogue, you have demonstrated it in your subsequent remarks and in the remarks of your colleagues.

In that same vein, may I combine a question and a comment. You have indicated that respect for life must be a major concern in any decision we make. It is more than just a rhetorical question for me to say would you not also agree that we have to be concerned for and show respect for the position of the pregnant woman; that we have to be concerned for the position of the doctors, which you have just been discussing; that as people concerned with society we have to be concerned about the suffering that takes place because of illegal abortions; that we have to be concerned about the degrading of life because of illegal abortions and that we also have to be concerned about the position of unwanted children and all of the socio-economic factors to which you have referred? Does this not add up to the complexity of the problem in the sense that even you cannot say there are absolutes by which we can be guided?

#### ● 1200

We have to look at all of our concerns and try to achieve some balance. I think it is because you agree with that and you have approached it in that way, that your appearance is most helpful. While I would welcome your comment on what I have just said, I will go one step further. Somewhere along the line somebody has to draft a report, somebody has to bring in legislation. You have criticized our interim report, you have criticized Mr. Trudeau's bill and you have

seen the difficulties that are involved in these approaches. I do not think you have expressed approval that the law remain as it is. Where are we? We have to come from Saint Thomas Aquinas and the angels on the pin into this room where we are supposed to draft a report. Perhaps that is enough until you have commented.

**Bishop De Roo:** We recognize the problem of the law as it is. I think, like all citizens, that we will welcome the necessary clarification of this issue. I accept your question and your comments. We are very much concerned with the personal problem of the suffering mother, with the issue of the possible degrading of life and with the sad phenomenon of the unwanted child. But, to comment further, must we not also look at the issue to see whether or not a certain piece of law is going to get to the roots of this problem? Behind the problem of the unwanted child is the much more grievous problem—a responsibility which society cannot evade—of why the child is unwanted. Must we not go to the point of trying to do something about the causes, rather than simply stopping at the consequences and the effects? Father Sheridan, did you want to add something?

**Rev. E. J. Sheridan:** I would like to add a little to that. I certainly agree with the Committee member's comments on the necessity of such respect for life. I think one point should always be remembered, that in solving a problem we cannot be totally and exclusively preoccupied with the magnitude, the difficulties and the agonies of the problem to be solved; we must also keep an eye fixed on what is this act that we perform to solve a problem. This is something which has preoccupied the Catholic bishops, and which they obviously emphasized in their brief—that the solution to this concrete problem is not to be found in the extinction of what is, let us say, highly probably human life. This is the thing we are doing in an abortion. This is a serious and grave thing—a weighty and agonizing problem—and therefore we cannot approach it as though this were a cure-all, and I am sure the member does not either. However, I think we must very carefully scrutinize any law which permits this grave act in any circumstances, and we must surround it with all the possible safeguards that will preserve in the individual case and throughout the nation a real reverence for this nascent life which has begun.

I greatly sympathize with those who have to deal with the agonies of the unwanted child and all the sequela, all the results that come from this terrible situation, but I think we must keep our eye precisely on the suggested solution and always consider just what we are doing in this particular act.

I would like to add that the mind of the Catholic bishops is certainly that the Catholic Church, with all its resources—its hospital resources, its various resources of children's homes, and so on—would gladly, and so pledges itself, co-operate in all endeavours in an attempt to alleviate the various difficulties which arise in this problem. This is certainly the mind of the bishops.

**Mr. Knowles:** This is certainly very important. We take it for granted, but it is good to have it on the record.

#### • 1205

May I just ask one question. I do not want to go over all the facets I alluded to earlier, but might it not be true that if it is serious to write a law which seems to permit what may be the extinction of what might highly probably be life, is it not also a serious matter to have a law which forces a woman to go through with a pregnancy under conditions that are untoward or against her health, or what have you? Do these laws not work both ways? I think you agreed with me a moment ago—I do not want to get too theological about it—that it is pretty hard to insist that there are absolutes; the church has changed its mind on things too often through the centuries. When we are looking at something that seems to be wrong, do we not have to consider that the opposite might also be wrong? Is our problem not one of finding the balance?

**Bishop De Roo:** I think Mr. Bernard Daly wanted to comment on that.

**Mr. Daly:** The questions you have raised about a law that forces a woman into this situation have to be seen as only the final stages of the problem in which she is living. In other words, she is in the situation of having difficulty in bearing this child because of a housing problem, because of income, because she is unmarried and the community does not support her—in fact, rejects and ostracizes her—and all of these many factors.

It is then really only in the final analysis that the law is a force. In fact, it is the whole of society that makes her burden, as she would say, intolerable in many cases.

I think I would be speaking for the related departments in other churches with whom, as you probably know, our department joined last fall in a report on divorce that we were able to present. I would just like to remark that one of the difficulties we had in getting some kind of a public hearing for that report was the insistence by the Joint Committee on a very narrow frame of reference as to what their task was. In other words, they accepted the narrowest frame of reference; that they were going to deal only with a change of the law. It is my personal hope—I think I am expressing a hope that the related departments in the other churches would share—that in approaching this in your final report your Committee will find a way of stretching your terms of reference as widely as possible so that you will not only deal with the change of the law in the final analysis, but you will also speak to the need for a family policy, such as Bishop Reed enunciated, as recorded on page 461 of your proceedings. I also hope you will stress that you see—as I think all of us see in family life work—a connection between many of the problems faced by this Committee and the possibility of educational programs, and so on, that might be opened up, for example, under Bill No. S-22. In other words, in my view, the problem you are dealing with is not just related to the change in the Criminal Code but to this whole question of the family policy, educational programs, and so on. It seems to me that one of the temptations of this Committee will be to not stretch the terms of reference as wide as possible in order to speak about the broader social dimensions of it.

**Bishop De Roo:** I think Father Lafontaine wished to comment.

[Translation]

**Rev. Lafontaine:** The matter just raised is, I think, trying in what is most likely a life, a human life, with the situation of women who have back-door abortions. I have not studied the matter too deeply, but from what knowledge I have I cannot see that the problem of back-door abortions could be solved by a piece of legislation like the one now before Parliament. Responsible people—others may hold different views of course—maintain that

there is only one way to put an end to back-door abortions: that abortions be encouraged and subsidized by the government. Because, if there is any limit or restriction under the law, if a medical office is liable to refuse to perform an abortion, some people will be tempted to get it done illegally if they cannot have it done legally. Now, then, the question is this: can the proposed legislation before Parliament really solve the problem of illegal abortions? And I think you will find that, according to some expert advice and the experience in certain countries, a definite affirmative answer cannot be given, to say the least.

[English]

**Mr. O'Keefe:** Mr. Chairman, many problems on this topic have been raised before this Committee. Mr. Knowles has mentioned many of them, but he also said that there can be no absolutes. I find that difficult to accept. There are absolutes. Certainly death is an absolute. It is an absolute for the child whose life is ended, if those who appear before this Committee have their way, by abortion on request.

**Mr. Knowles:** It is no longer an absolute around here!

**Mr. O'Keefe:** Mr. Chairman, the crux of our problem is the disagreement about when a human person begins life. Perhaps the question has been asked previously, but I would like to have it a little more carefully defined. When does a human person begin life?

**Most Rev. Remi De Roo:** I was being a little distracted. Would you kindly reword the question?

**Mr. O'Keefe:** In essence, it was: When does a human person begin life?

**Most Rev. Remi De Roo:** Could we ask our moralist to go over this point again?

**Rev. E. J. Sheridan:** Mr. O'Keefe, I do not think that revelation, or philosophy, or any empirical science at the present time, is able to answer that question. Each of these sciences, in its own sphere and in its own manner can give a certain convergence of evidence which, in my view, enables one to say that for practical purposes I consider a foetus, or an embryo, human from the time of conception; but I do not think I can say this

is certainly so. It seems to me that this constitutes a workable, practical certitude; the kind of certitude that one requires in the ordinary day-to-day conduct of life and the organization of society; the safe basis on which one can predicate action, and the only safe basis on which one can predicate action. So it appeals to me at the present time. However, I cannot advance proof, and I know of no discipline, no science, which is able to provide any such proof.

I do think that as long as there is this high probability, this moral certitude, this practical certitude, which is required in the ordinary affairs of life, then it must be taken into very sacred account in any action which endangers the life of the foetus.

Our civil law has recognized that the foetus is the bearer of rights. I do not see how anyone but a person can be the bearer of rights. We do not really talk about the rights of an animal. There is another inconsistency in the law, which perhaps will have to be illuminated one way or another. But I cannot answer the question—at least I have no comfortable solution.

**Mr. O'Keefe:** You will only go so far as to say that it is a high probability?

**Rev. E. J. Sheridan:** I would say it is that practical certitude on which mankind must work in these affairs, where absolute mathematical certitude is simply not to be found, and perhaps never will be found.

**Mr. O'Keefe:** But in logic, Father, if it is not life it must be death?

• 1215

**Rev. E. J. Sheridan:** There is not much doubt that the embryo is alive. The question is whether or not this is human life. Like yourself, Mr. O'Keefe, I would ask if it is not human life, what in the world is it? But I cannot say definitely as a theologian. My definition of a human person is one who is endowed with an immortal soul. Can I say that there is an immortal soul there? Nothing in revelation tells me so.

**Mr. O'Keefe:** Or not so?

**Rev. E. J. Sheridan:** No; or not so.

**Mr. O'Keefe:** I have just one other question, Mr. Chairman. On page 6 of your brief, with which I agree completely, you ask what I think is a very pertinent question, particularly in view of the fact that the Chairman

this morning said that this was our last meeting. You ask:

Is it right for Parliament, without measuring through appropriate research the moral, psychological and sociological implications, to venture into new legislation on a problem of such grave consequence for man and for civilization itself?

It is a rhetorical question and you do not answer it, but I can presume the answer.

**Bishop De Roo:** Father Naud wanted to comment in that area.

**Prof. Naud:** I did not understand the question.

**Mr. O'Keefe:** You ask this question, Father:

Secondly, is it right for Parliament, without measuring through appropriate research the moral, psychological and sociological implications, to venture into new legislation on a problem of such grave consequence for man and for civilization itself.

I simply mention it for emphasis. I am sure you will agree that we should have further study.

Thank you, Mr. Chairman.

**Mrs. MacInnis (Vancouver-Kingsway):** I think we all feel that this is a very important meeting because we are encouraged really to exchange ideas and not just prejudices. I think Bishop De Roo has done us a big service not only in enunciating this but in carrying it through.

I wish to revert to a very practical approach to the matter. To begin with, I think all of us would fully agree that until socio-economic conditions and education and society are built in such a way as to favour human life fully we are not dealing with this problem. I have friends who take the attitude that until there is a good society they will not give money to the Community Chest, or to any interim things; that that is not dealing with the real problem; and that until we deal with housing and education, and so on, they will not give any immediate help to people who are in desperate straits.

It is in this practical light that I want to come at this problem. I respect, and I completely agree with, your stating that respect for life is the basis, but many of us have been

impressed by the fact that a number of witnesses have had so much respect for the life of this tiny beginning that they have been completely blind to respect for the adult life of the pregnant woman, who is often the mother of other children and the whole home life at the same time.

This seems to me to be a problem very difficult to solve. I do not think it is a simple matter of respecting life or not respecting life. It is a matter of the weighing of the respect due to a small, unformed potential human against the respect due to a woman who is caught in a trap just as surely as an animal in the woods is very frequently caught in a hopeless situation. I would like your comment on this. There seems to me to be only two or three courses to follow. We have been told by Dr. Mongeon and others that illegal abortions are bound to continue and to increase as urbanization problems increase and so on. Consequently, it would appear to me that if we did not amend the legislation illegal abortions would continue and the situation would worsen. Now we can allow our doctors, illegally, to try to help this situation, because it is illegal to do anything beyond saving the life of the woman, or knowing the dangers, as you said, Bishop De Roo, of a too wide open course, we can face the situation squarely and have reasonably broad legislation which will give it legality, and then hope that our education and responsibility will increase in this regard. I would like to see if we could set a course that would let us do that. Where do you think it would lie?

• 1220

**Bishop De Roo:** I share your concern and I recognize the problem of the choice between leaving things as they are, leaving the burden on the doctors to proceed in an illegal manner, or facing the situation and doing something about it in law. Is there not a further alternative—that of facing the situation, yes, but doing something about the social problems that bring about these consequences? Then I would come back to your first point and agree wholeheartedly that it is entirely wrong for society to allow the consequences of social problems to be vested in the poor individual who is caught with the consequences and becomes the scapegoat. We have the greatest sympathy for the poor woman who is caught in this bind. Our point is that we have to go beyond this to the causes that brought her there, to the causes of the

unwanted children, and I think it takes more than just a simple text of law; it combines a concerted attack by all the citizens on the causes, and I think in this respect we largely share the same concern. Father Sheridan, you wanted to add something.

**Rev. E. J. Sheridan, S. J. (Professor of Moral Theology, Chairman of the Faculty, Regis College, Willowdale, Ontario):** Mrs. MacInnis, if I might change my role a little bit and ask a question. Do you think that any abortion law which is presently being considered in a private member's bill or that which is contained in the Omnibus Bill is going to make a substantial difference in the number of people who find themselves in this bind that you describe, and which I agree is totally realistic? I think that no law that we have now, which is insisting upon medical indication, is going to make any appreciable difference in the number of such tragic pregnancies which are really a tremendous burden, a breaking burden, to the individual. It seems to me that the solution to that problem lies almost exclusively in social legislation other than that, or am I wrong here?

**Mrs. MacInnis:** I am used to getting improvements bit by bit and I think that you have to take a bit here and a bit there, when you can get it. Now I think that even if we included "health" along with "life" it be worthwhile. For one thing it would let the doctors be honest people, which they cannot be now if they show compassion and bend the law to save the life of a woman. I think that would be something. I also think that it would be a start in dealing with these problems. It is only a bit but I think it is worthwhile.

**Bishop De Roo,** a short time ago your church was very much opposed to the idea of making birth control legal. We had hearings and before they were finished your conference of bishops came before us and said that for several reasons they wanted the law to be changed. You considered the law was a bad one because it could not be enforced and that it brought the law into disrespect when it could not be enforced. Then the other reason was that you felt that there were great numbers of Canadians who wanted a law which would permit them a knowledge of birth control and contraceptive measures and who could in good conscience use such a law. Wherein is this situation basically different from that? We recognize that, as a church

body, you probably have not reached the stage yet where you are prepared in any degree to sanction very much movement at all in connection with abortion, but we feel that you do know that a large proportion of Canadians do want at least some measure of relief in connection with this abortion legislation. Would you tell me whether or not you would be willing to do as you did in the other case and say that those people whose consciences would not permit them to have the new legislation should not have it but that the others should be free to do so? Can you not see that this is a similar situation?

• 1225

**Bishop De Roo:** You are really asking me several questions rolled into one and I would hope that between us here we could try to give you an answer to the different questions.

May I begin by referring to our previous statement on contraception contained in Proceedings No. 24 of the Joint Committee of the Senate and the House of Commons in 1967 at page 1517, and I quote:

It is our clear understanding, of course, that the modification of the law in question is not to extend to that part of it which has to do with abortion. For our conclusions would be quite different were there question of such direct destruction of human life.

Here is the key issue. We are referring to the question of our attitude before human life and I would like the members of our Committee to take up some of these points.

**Mrs. MacInnis:** But that is not the key issue with me. I am asking why, in the one case, you are content to make the decision for people of your particular way of thinking and allow the other people of a different way of thinking to make their own decisions but in this case you wish to make the decision for the entire Canadian community?

**Bishop De Roo:** I do not think that we have anywhere stated that we wish to make the decisions for the entire Canadian community. In our pastoral letter we do make a clear distinction between two fundamental issues, one of which is the moral issue. We have taken our position on that matter and I do not think that it can be called an exclusively Catholic position, nor do I think that this should be treated strictly on denominational grounds. It is the moral issue of an attitude

before the question of the taking of people's lives. The other part of our pastoral letter deals with the question of law, and this is an entirely different issue. What is it that makes good law? Mr. Daly, as I was not a member of the previous committee, would you comment on the first part?

**Mr. Bernard Daly (Director, Family Life Bureau, Canadian Catholic Conference):** I really want to emphasize that one of the differences is the weight of the matter that is before us. In other words, when it is a matter of life then the weights are distributed differently; and in that connection I think it is worth stressing that we do not feel that we stand alone. For example, the Presbyterian brief said quite bluntly that abortion terminates life, and they could find no refuge from this fact in any kind of calculations. Now it is in this persuasion—which I say we, in honesty to ourselves, have to bring here—that your question lies. This is where the distinction lies—part of it at least.

**Rev. E. J. Sheridan:** I would not agree that there are no moral absolutes. I think there are some, although perhaps not quite as many as we thought a few decades or centuries ago. I think in moral matters there are absolutes, but the business of lawmaking is essentially pragmatic. What makes for the common good? It is quite consistent and conceivable that a group that holds a definite moral position on divorce might say, "Even though we hold that divorce is not good morals, nevertheless the fact that there should be a law in this society is a good thing; a law permitting divorce in this society is a good thing."

• 1230

When we come to another matter we might say we hold a certain position in morals and it is so intimately connected with basic human rights, respect for life, and so on, that we think there can be no concession on this—in view of the common good and not because of a religious principle, but precisely because this does not make for good law, this is not pragmatically directed or effectively directed to the common good. This is the base from which the letter of the Bishops proceeds in the matter of legislation.

It is not a question of allowing people to adopt a position or imposing our position on others or on Catholics. The Bishops are con-

vinced, and their advisers tell them, that a loose law in the matter of abortion is simply not for the common good. It is a bad law because it introduces an element of disorder, a fundamental disrespect for life, which we have great apprehensions is likely to grow.

So, there is no inconsistency, simply because the business of lawmaking is pragmatic. In one case, the specific case of contraception or divorce, we think this constitutes a good law. We think the other case is so intimately connected with something fundamental to the common good, the common weal, that in our total view of life, rights, and so forth, we are not ready to make quite the same concession. I do not think it is a matter of inconsistency. It flows from the simple fact that legislation is a pragmatic business. We have to try to find what makes for the common good in the concrete society in which we find ourselves.

[Translation]

**Mr. Matte:** Recognizing the fact that the Criminal Code is ambiguous, what practical amendments would you bring in to clarify the situation, if you were in our place, so that religious opinions would be respected and doctors enlightened in this matter?

**Bishop De Roo:** I am sorry, but as I have not been endowed with the qualities, the gift or the talent of the legislator that you have, I am not in a position to indicate what really would constitute a good legislation. All we can say at this time is that we do not believe this bill is a good piece of legislation. And we say this, bearing in mind our civic as well as our episcopal responsibilities.

We will always be ready to discuss any concrete text, but we could not ourselves say what it should be.

**Mr. Matte:** Do you think it is easy for us to come forward with a broad legislation which would meet your views, namely that abortion cannot be accepted directly to save the mother's life, but it can be indirectly?

**Bishop De Roo:** It will never be easy, obviously, to come up with a bill which would cover all the angles of the problem as long as the legislators are confined to considering only the consequences and not the causes of the phenomena involved.

**Mr. Matte:** What about self-defence in the case of abortions?

**Bishop De Roo:** An interesting question for our moralists. Father Lafontaine?

**Rev. Lafontaine:** The argument of self-defence does not hold water in this case because you can act in self-defence only against an unjust aggressor. Now, the embryo or the foetus accomplishing normal biological functions cannot be considered as an unjust aggressor. In answer to another question you have asked, namely what would constitute, in our opinion, a good legislation, I could perhaps say, and this is my own personal opinion—considering all that is contained in the text you have read—that a good legislation would limit as much as possible the performing of abortion to cases where it has to be done. Then, the following question comes to mind: are specialists, physicians and psychiatrists not coming to the conclusion that, considering medical and psychiatric advances, abortions are on the way out because, on the one hand, there are other means available and, on the other, they affect or can seriously affect the person who has the abortion? I think a lot of people will say—others, of course, will disagree, and that is why this is such a complex question—that this kind of legislation is practically outdated because cases where the life of the mother is endangered are becoming theoretical cases. Conventions of psychiatrists in the United States have also indicated that, before long, psychiatrists will no longer find, within their own scientific field, any reason to promote or request abortions as a treatment. So, one wonders whether this proposed legislation, apart from moral considerations, is behind the times as far as scientific progress is concerned. And instead of talking about liberalization and modernization, especially when confronted with the serious problem of life, I wonder whether this proposed legislation is not a step backward.

**Mr. Matte:** Now, a more delicate question. Should the question of abortion come to a vote, would Roman Catholics, and there are many here, be morally bound, as some people have stated?

**Bishop De Roo:** Do you mean legislators or ordinary citizens?

**Mr. Matte:** Legislators.

**Bishop De Roo:** Legislators. Of course, the legislator has all our sympathy. His respon-

sibility is twofold and, in the final analysis, he must follow the dictates of his conscience. And no bishop would ever fail to respect a decision based on a well-informed conscience. It is our duty, of course, to enlighten his conscience but, finally, he must take his decision before God. And the legislator must first take his decision as a citizen, Christian or not. He must let his conscience guide him. Secondly, as a legislator, he has another responsibility and that is, in the face of a concrete situation, he has to legislate for the common good. He must ask himself whether or not this legislation will serve the common good, whether or not, as a legislator, he will assume his responsibility which is not simply to go along with the majority. The merits of a piece of legislation do not necessarily depend on the number of people who are for it. The legislator has another responsibility and that is to guide his people, because the law has a most important and serious educative function, as you know, especially nowadays when the tendency is to consider automatically as acceptable and moral all that is permitted under the law. So, there is a fundamental distinction to make there. Would the moralists have anything to add?

**Rev. Naud:** Allow me to revert to the question you have asked: what would be considered a good legislation? It has been pointed out, and rightly so, that it is not up to us to lay down the law, and you would not expect that either. But perhaps you should expect guidelines, enlightenment, a general outlook. I think we should say that a good law in this matter—in view of the fact that (and we are in agreement with the scientific view here) life is a continuing process beginning with the foetus and progressively developing into a full-grown adult and since, therefore, there is continuity between intra-uterine life and life after birth—a good law then must promote respect for that being. That is essential. Therefore, you could ask yourselves this question: would a law which theoretically says, on the one hand, that the foetus has a sacred right to life and, on the other, that it can be destroyed for health, economic or any other reason, would such a law really promote respect for life?

Secondly, because law has an educative purpose, a good law must not only promote respect for the life of the foetus but must effectively assure respect of this right.

Up to the present, the law, our law, considered abortion a criminal act and those who committed the act were criminals. In implementing the law, authorities were more or less successful—I am not sure which—in curbing the act, but just the same there was a form of control.

A good law must effectively assure respect for the life of the foetus.

After that, there are the problems you have raised—the extent to which a law should be broadened. There are all sorts of points which could be mentioned. First, there is the problem of a pregnancy which endangers the life of the mother—this is not the same as a pregnancy endangering her health, as you are well aware.

And there is also a vast difference between the report you have submitted to Parliament and the parliamentary bill itself, as you proposed a law permitting abortion where the health of the mother was seriously endangered.

We therefore attach great importance to the words, “health of the mother”, health seriously endangered, and life of the mother.

Mr. Chairman, I feel it is obvious that we do not foresee the same difficulties in an act which would permit abortion only in the case where the life of the mother was seriously endangered.

**Mr. Matte:** But when the life of the mother is seriously endangered, her health is too, at the same time.

**Bishop De Roo:** Just the same, you are speaking of two different values, are you not, when you compare health and life?

**Rev. Lafontaine:** You state that the bill before Parliament begins by a general affirmation to the effect that abortion is criminal and that it is liable to a sentence of life imprisonment. It means, therefore, that the legislator deems abortion to be a very serious act. The following question must be considered: would a law which could considerably increase the number of abortions be compatible with the first statement, that it is a crime punishable by life imprisonment? Secondly, why is it a crime punishable by life imprisonment?

I maintain that one of the fundamental aspects of the problem is that one is called upon here to judge the value of a human life. It is an intrinsic value which is not acquired

in relation to its usefulness or uselessness in respect to other human lives. Herein lies the danger of a law or, too, of a mentality which, in the end result, would consider the value of a human life in relation to its usefulness or uselessness to others. At this point we face the risk of creating an attitude which would run counter to respect for life and the sacred nature of it. We would end up by considering a human life much as a means for another because it is useful or otherwise. Can a human being be considered a means for the purposes of another? The answer is clearly "no" and it is for this reason that the present law and the bill under study continue to state that abortion is a crime, a crime punishable by life imprisonment.

**The Chairman:** Mr. Rock, would you put your questions?

**Mr. Rock:** Bishop De Roo in the second paragraph on page 4 of your report you stated:

When the mother's life is truly in danger, we understand that there may be a temptation to consider abortion, even direct abortion, as justifiable. Nevertheless, we must point out that this view is contrary to a persistent Judeo-Christian tradition that life is sacred. Likewise, to advocate abortion in order to protect something other than the very life of the mother, even if it be her physical or mental health, is to disregard the sacred right of the foetus to life; also, it is to sacrifice a greater value for a lesser one.

Would you tell me which you feel is of the greater or lesser value?

**Bishop De Roo:** Are you speaking about the respective lives of the foetus and the mother...

**Mr. Rock:** That is right.

**Bishop De Roo:** ...or the value between life and health? If you are speaking of the right of the foetus to life and the right of the mother to life, I would say that we do not esteem one higher than the other; we respect both of them in themselves. This takes us back to what Father Lafontaine was speaking about a moment ago. Human life is a value in itself and consequently must never be used or exploited for the advantage of another, and this is why we do not accept the transfer

from the order of life to the order of health. And we do not accept as moral that the life of a foetus may be disposed of simply for that lesser value which is the health of another person. I think we are getting here to the heart of the issue, respect for human life in itself, not as an end to another purpose.

**Mr. Rock:** You are aware, of course, that Roman Catholic hospitals do allow abortions in certain cases and they have to make a decision at times. I understood from the committee that was here that they try to save both and it may possibly end in the sacrifice of the foetus.

**The Chairman:** I think you have misinterpreted their position. I think their position was that if, during the treatment of another condition, abortion happens, then this is permissible, but under no circumstances do they condone what is called a direct abortion.

**Mr. Rock:** That is right, yes.

**Bishop De Roo:** A moment ago I used the word "end" when I really meant "means". I meant to say that human life is not to be used as a means to another end, if you will accept that correction.

Father Sheridan, did you have any further thought on this issue?

**Rev. E. J. Sheridan:** It seems to me that there is an argument and a defensible position, which is already enshrined in criminal law and various other laws, in the law of legitimate self-defence and so on, when you are talking about abortion in the case of serious and imminent danger of the death of the mother. Here we are face to face with a confrontation, a competition of two values, two lives. But where you are suppressing life, extinguishing life for the sake of the health of the mother, which is rather unspecified, we have a confrontation of life itself and better-or-worse life; and it seems to me that in this respect we enter into a much more serious moral problem. Incidentally, when I said that legislation is a pragmatic business, I was far from meaning it is solely pragmatic. The legislator must look to the moral order in framing his laws, but he also must look to the practicability of the law and its capacity to be carried out, if I might just correct myself on that point.

• 1250

**Mr. Rock:** As you have been studying this problem for the past six months, discussing it

and setting up different committees, you will understand the problems we have with different briefs and opinions.

**Bishop De Roo:** May I express my admiration for the fact that you accept these supplementary and sometimes very unrewarding tasks.

**Mr. Rock:** On the same page, in paragraph 4, you say:

Medical opinion is virtually unanimous that cases where a direct abortion is necessary to save the mother's life are fortunately so rare these days that their existence is becoming merely theoretical. Less rare, to be sure, is the case where a pregnancy may seriously and permanently endanger the mother's physical or mental health. At any rate, it certainly would be a false approach to think that solution of such borderline cases calls for legislative changes of the kind proposed.

Do you feel that such borderline cases are so rare that abortion could be permitted without any legislation at all? In other words, that the hospitals that perform such abortions should be allowed to continue to do so without changing any laws?

**Bishop De Roo:** I am not sure that I fully understood the intent of your question. I apologize. Would you mind sharpening it for me?

**Mr. Rock:** You have stated in the brief, as I understand it, that if these cases are so rare why should we make any change in the law; because these rare cases are being looked after somehow in certain hospitals.

**Bishop De Roo:** Father Lafontaine, do you wish to comment on that?

[Translation]

**Mr. Lafontaine:** I think the text is being misinterpreted.

**Mr. Rock:** Maybe.

**Mr. Lafontaine:** In fact, it is not stated in the text that there is no need for changing the legislation. It is said that the proposed law constitutes a false approach—I am using the English text—as concerns the borderline cases. It does not say the law does not need to be changed; what it says is that the law now under study by Parliament seems to us to be a poor way of dealing with these borderline cases.

**Mr. Rock:** Oh yes!

[English]

**Bishop De Roo:** Yes. What should be emphasized here is that we are not saying that the law should not be clarified. We are commenting on the proposed changes. We do not think that we need legislative changes of the kind proposed.

**Mr. Rock:** Yes; I understand.

You have stated from the outset that in your view the "health" clause is definitely too open. You have also stated that you are here to help this Committee. I would like to read from Bill C-195, at page 24, clause 17, subsection (4) at line 38:

has by certificate in writing stated that in its opinion the continuation of the pregnancy of such female person would or would be likely to endanger her life or health, and

This, I believe, is what is disturbing many people. You feel that the words "her life or health" make this clause too open?

**Bishop De Roo:** Yes.

**Mr. Rock:** Someone has more or less said that it is up to us, but you have said that you are here to help. Could you suggest to us what words or phrases could be added that would be satisfactory to you?

**Bishop De Roo:** We feel that the law is sufficiently broad while remaining in the area of life. We do not find acceptable the introduction of the words "or health". We feel that it is morally unjustified and that it is not good law because of its consequences. It opens the door to unlimited problems which have not really been investigated. Hence our insistence on further information on, and more study of, these consequences.

We also feel that even as law it is not going to the root of the problem. This is why we referred to, and emphasized in the latter part of the pastoral letter, the positive approaches that must be taken.

Is there any comment from the other members?

**Rev. Sheridan:** I think it is probably a defensible position that any really serious and immediate threat to physical health is a threat to life and is likely to endanger life. Therefore, on the physical side, the addition of "health" hardly seems to be such as can be

justified. In psychic health we move into an area in which there is much greater divergence among psychologists and psychiatrists on the indications for abortion. When the scientists themselves are in great division on this point, is it wise law to open the door to the exercise of such a grave responsibility? Whether or not this particular psychic difficulty is going to be cured or aggravated by abortion will be subject to the completely contradictory opinions of several men.

We are not certain whether the woman's physical health will be improved or will deteriorate, or whether her psychic health will improve or deteriorate; these are difficult problems and there can be differences of opinion. The one thing that is always certain is that the foetus will die. That is the basic, constant certitude. Therefore to open the law to the indication of "health", physical and psychic, seems to me to do so in a way that it is really almost an invitation to abuse.

**Bishop De Roo:** We are also aware that the word "health" has been interpreted before you. There is evidence to this effect. It is to be understood in such a broad sense that we are effectively opening the door to any number of socio-economic reasons.

Here we take a moral stand. We refuse to accept that socio-economic reasons should prevail over the right to life.

**Mr. Knowles:** Father Sheridan, I thought, got close to saying the same thing—and I approve it—when he suggested that "life" might be interpreted a little more broadly than as just existence. A state of health might be such that it could lead to loss of life.

**Rev. E. J. Sheridan:** I think "serious danger to physical health" would fall within a reasonable interpretation of endangering life, and I am quite sure that this is the way it would be interpreted at any rate.

**Mr. Knowles:** Catholics would be interpreting life as the Anglicans interpreted health.

**Rev. E. J. Sheridan:** I am not sure that I catch the allusion.

**Mr. Rock:** In that case it possibly should read something to the effect, "likely to immediately endanger her life or her health", or which may end in death, or something like that. In other words, that it is seriously

endangering her health and may end in death. Is this the thought?

**Bishop De Roo:** I must admit I have difficulty seeing how you are improving it by inserting the word "health".

• 1300

**Mr. Knowles:** You are not alone in that.

**The Chairman:** Father Naud, do you wish to comment?

[Translation]

**Mr. Naud:** I would like to clarify a detail so you will understand the point of view of our delegation.

We believe that any abortion, the fact of directly ending the life of a foetus, is an immoral act. That is the present opinion of the Church. For us Catholics, it does not seem possible to stand behind a law that would permit such an act because we feel that the law must protect the right of this human being, of this foetus, to life. So it is difficult for us to tell you what kind of broadening we would like to have brought into the law. I think what is clear is that we see a great difference between each of the various opinions given as regards the mother's right to life, the clause concerning the health aspect, and "health seriously endangered". These are three very different aspects and Fr. Lafontaine clearly expressed the view of our group by stating that a law that would permit the least number of abortions would always be the best, as far as we are concerned.

**Rev. Lafontaine:** The distinction may be the following one: in view of our basic stand, do we have a text to propose? The answer is no. No Bill will be proposed in view of our fundamental stand. But, on the other hand, would we object to another text which would be bound in with the problem of life? This is a different matter. We may not want to propose, but we may or may not protest.

**Mr. Simard:** The reflection that I want to express may seem rather odd, and indeed, may seem ignorant, but I will ask you to illuminate me.

The Roman Catholic Church, I believe, states and maintains that an abortion as such is an immoral act and if this assertion is true, on what principle of moral theology is this teaching of the Church based?

**Rev. Naud:** On a very simple principle and a very common one, the right of any innocent person to life, and the absolute interdiction against the deliberate taking of innocent human life. This is the basic principle. It is sufficient, I believe.

**Rev. Lafontaine:** I could perhaps complete the thought, if you will allow me, by saying this: We feel that the life of a human person is an absolute and we cannot agree that a human person may be considered a means for another person, or that human life may be evaluated in terms of its usefulness or lack of usefulness to another human being.

**Mr. Simard:** As I understand your statement, Father, we cannot start from a basis that we make value judgments on human lives, even differentiate between a woman and an embryo, a foetus. Is that right?

**Rev. Lafontaine:** Yes.

**Mr. Simard:** Very well, thank you.

[English]

**The Chairman:** That is fine. Mr. Enns.

**Mr. Enns:** I feel somewhat like uttering the anguished cry of Pilate and saying, "What is truth?"

We have especially listened to Father Sheridan talk about the probability of there being human life at the point of conception and then denying the absolutism of that statement. I want to come back to Mr. Allmand's first question about sacraments to the unborn foetus.

• 1305

Is it not true that there can be a natural termination of pregnancy even at the first month of pregnancy, or at an earlier stage, when the mother may almost be uncertain that in fact this termination took place? Perhaps that is not too clear. The mother probably always knows, but certainly very often the Church may not necessarily be advised of this. If this can be accepted, is it not an admission that it is difficult really to spell out the fact that there is human life at that stage?

**Rev. E. J. Sheridan:** The fact that there can be miscarriages and abortions—perhaps miscarriages of which the mother is not conscious—is something which is suggested to me by my reading, but I am not really competent to judge. I rather think it does take place,

and fairly frequently. This does not seem to me to be particularly relevant to the statement that I made.

When the Church requires conditional baptism or baptism of a foetus—if it is not dead—it is, let us say, a high security measure. The Catholic Church, as well as a great many other Christian churches, sets a very high value on the sacrament of baptism as a means instituted by God for the communication of grace to the soul. This is a deep theological doctrine on which I do not want to go into details at the present time. However, it is a matter of tremendous importance in Christianity and in the theology of the Roman Catholic Church. Consequently, even though there might be a minimum chance of human life in this foetus, even if it is alive, nevertheless the importance of the sacrament in our theology would lead us to confer the sacrament, at least conditionally.

**Mr. Enns:** In your experience has there been a large number, or any number, of instances where the sacrament has been administered to a foetus under 12 weeks of age?

**Rev. E. J. Sheridan:** I think that has happened quite frequently. It has happened quite frequently in hospitals. Of course, it is not limited to hospitals, although in many other cases those present at the time are not aware of what is taking place; the value of it, the utility, and so forth.

**The Chairman:** I think I should tell you that one of the previous witnesses said that if a miscarriage takes place in which tissue is passed which is recognizable as fetal tissue then normally it is baptized.

**Mr. Enns:** I think many of us are searching to find and to evolve a system of law that is within the Christian tradition and I believe from the very thoughtful and helpful responses that the witnesses collectively have given to the Committee today it is apparent that this so-called Christian tradition is an evolving thing. We have moved from St. Thomas Aquinas, a denial that we do not now look at the world the way we looked at it then; then in the 1960s we have to hold certain truths—and I say again, "What is truth?"—and perhaps by the year 2000 we will find a different truth or a different way of associating the value that we hold to be almost absolute today.

I am just wondering if the witnesses cannot accept that this is really an evolving tradition. At one time it was a tradition to whip, to hang and to condemn people to life imprisonment for all kinds of things. The Church would condone the whipping and the hanging and the life imprisonment for all kinds of sins that we do not now consider to be that absolute. I am just asking if the witnesses could not see that perhaps this is a step forward in this rather imperfect world in serving this imperfect society we are trying to serve? Are the suggestions included in the abortion amendments not an acceptable step forward?

**Bishop De Roo:** I think Mr. Daly wanted to comment on that.

• 1310

**Mr. Daly:** Even your remarks, Mr. Enns, suggested the relationship between moral considerations and the social situation. I would like to suggest that if some of the social measures that I recommended—some of the educative measures and some of the programs for helping to raise the cultural level of our approach to this whole question of sexuality—were implemented, and I have had several “amens” for these sorts of programs, then this very question we are talking about here today will be in a totally different social context. In other words, my own hope would be that given these sorts of social measures—to develop, for example, much more open acceptance of the problem of unwed mothers; to develop a family policy that really is trying to help families to find housing, to level out their income and to support their health problems, medicare to be specific; and so on—then the questions about abortion that we are struggling with today will be in such a different context that many of the questions that we are pushed on today will naturally evoke different kinds of replies.

I think this has to be seen when you look at the changing of Church teaching on some of these matters, as Father Sheridan, I think, mentioned. Much of the early teaching on some of these questions was based on a biological knowledge that just is passé today.

**Mr. Enns:** It is interesting that you make a plea for the acceptance of what certainly the Church once considered a transgressing sin, sexual relations between unmarried persons. We say now we might accept this...

**Mr. Daly:** I did not say that.

**Mr. Enns:** Am I wrong in this?

**Mr. Daly:** I did not say that.

**Mr. Enns:** You want a greater acceptance by society of the unwed parent. Is that what I heard you say?

**Mr. Daly:** Oh, yes.

**Mr. Enns:** What is the Church's position in relation to the unwed parent, then?

**Mr. Daly:** I think it must be a position of very great openness and very great compassion and charity.

**Mr. Enns:** Could there not be some openness and compassion and charity to the pleading mother's request for an abortion? I am suggesting that in the case of family planning, as Mrs. MacInnis said, in the case of birth control, in the case of divorce, the Church has been able to evolve from what was a static position to one of a more accepting position, and I am suggesting this may just be another area where two decades hence or perhaps even earlier we will see some evolution.

**Mr. Daly:** The difference for me is in the obvious; one knows from personal experience. For example, I know a doctor and his wife who have received into their home some 20 unmarried girls to help them through this period; to help them to overcome their personal problems; to gain a little confidence; to get some education and so on, and it is quite evident that this brings a real solution. Now, it is not equally evident to me that abortion brings a real solution, and this is just the difference.

**Mr. Enns:** Well, that may be a matter of judgment that you make; others would arrive at different solutions.

**Mr. Daly:** It is evident that others have arrived at different solutions.

**Mr. Enns:** This may be so. I just wanted to point out that I agree with the three basic concepts in your submission that we want to have a respect for life and I would like to add, “and the living” and this we can then bring in from other concerns; the need for research is always necessary in all fields of knowledge and then this matter of social reform leads me to one question. This is the third basic concept and you talk as though it

is just bad housing and the low economic situation. Perhaps I did not catch this correctly, but I just wanted to...

**Mr. Daly:** I am not saying it is just that; I am saying it is that too.

**Mr. Enns:** Yes.

**Mr. Daly:** It is not just the problem of the Criminal Code. I am afraid we will get to thinking that it is just the problem of the Criminal Code.

**Mr. Enns:** I just point out that some requests for abortion emanate from some of the most adequate homes, so housing itself is not a problem. I just want to add that I am most impressed, as are other members, by the manner in which the witnesses are dealing with some of our probing questions today.

**The Chairman:** Mr. Chatterton?

**Mr. Chatterton:** Mr. Chairman, when the Catholic Hospital Association of Canada appeared before us Mr. Dehler suggested a test of the proposed legislation contained in Bill C-195 with which I was very impressed. He said that if we can find a "yes" answer based on evidence to the question, "will this proposed legislation decrease the number of illegal abortions", then, "is this the only way by which illegal abortions can be diminished", he said if the answer to those two questions is "yes" then he implied, I think, that the Church, choosing the lesser of the two evils, might go along with it.

• 1315

I might just comment that I was one of those that voted against the interim recommendation of this Committee and the mere fact that our Chairman has now asked for further information from our Secretary of State for External Affairs about what goes on in other countries confirms that even at that time we did not have sufficient information on which to base a judgment.

But could I get a comment from you concerning the test that Mr. Dehler suggested we apply to this legislation and what your response, your attitude might be if we can find a "yes" answer based on evidence?

**Bishop De Roo:** First I would like to say that it is very difficult to give a definite answer to a series of "ifs". We would have to cross that bridge when we come to it, as the old expression goes. I think this is a valuable step forward and it does emphasize the need

for research and we would hope to co-operate in any way possible in doing this probing and not leave the legislators alone, as it were, to do all the hard work.

I think we need co-operation and I do not think it is quite fair to the legislators that the whole problem be thrown on their shoulders and left there either. It is possible to make of the legislators as well scapegoats for the problems of society and blame the legislators when it does not go well.

I think a broad responsibility rests on every citizen in this country to face these questions. On the particular issue, I am going to refer to our moralists here to see if they have any personal comments; and I think Professor Naud was trying to speak to a previous point also. Would you like to do that now?

[Translation]

**Mr. Naud:** Yes. I should like to return to what was suggested a while back by Mr. Enns regarding the evolution of Catholic thought, the opinion of the Church, if you will, and the matter of possible change. I should like to volunteer a few remarks on the subject.

The first is that whatever the past or future evolution of moral thought, one must always live according to what one believes, today, to be the right thing, is that not true?

Therefore, past or future developments do not count so much; it's what one believes today that counts. I feel that I am not lessening the value of our present principles by saying this: they may change as they have in the past.

The second remark is that in discussing these matters, we must not refer to the future developments of one problem because another problem has evolved; you have the proof of this today in our position on abortion. If the thought of the Church of Canada has evolved regarding what may be a good law on divorce or contraceptives, it has not evolved much regarding abortion. Therefore, if moral thought has evolved on one point, it will not necessarily do so on the others.

And the third remark is that in our own thinking, progressive evolution is evolution towards respect of all human life. This, I believe, is the foundation of our thinking and for us the problem is not eventually that of an indifferent attitude towards human life.

**Rev. Lafontaine:** Regarding the matter which has just been raised, it is certain that in a document dealing with abortion, the reasons given in support of such a measure are to be taken into account.

For example, some people will maintain: "There are many illegal abortions. It is an unfortunate situation and one of the ways to remedy it would be to make abortion legal." We can analyze this reason, but it would not mean that if it were true, we would agree with abortion. You see, people could say to us: "It would lessen the number of illegal abortions." If, after study, we have no evidence that such would be the case, we could say that we have no proof at present that such a measure would lessen illegal abortions unless, perhaps, as some maintain, the State positively encourages and even subsidizes abortion. But if, after research and after comparisons of statistics in the various countries, you arrive at the conclusion that the number of abortions could be decreased, the following question would still have to be considered: Is the destruction of the life of a creature which is very probably a human being a good way to put an end to illegal abortions? Should we not seek better ways, related to the causes of such clandestine abortions—the fact that mothers do not want to have children, for example.

There is a distinction, and I feel I am making myself understood, between the fact of analyzing the reasons advanced by some persons and the fact of being in agreement, even if their reasons were valid—an important distinction.

[English]

**Mr. Forrestall:** Mr. Chairman, I do not think there are too many areas left with which I can deal. I would like to ask Your Excellency to comment on the atmosphere in Canada that too swift a move on the part of this Committee or government at this particular time might create with regard, first of all, to the young people who are just entering the educational disciplines—higher education and the postgraduate fields—and to the people who will become the professionals in our society? What will this do to their thinking? By our swift action will we create an atmosphere in which it will be easier for children to consider questions of euthanasia, selective breeding and the absolute ordering of society in terms of the wishes of the few?

**Bishop De Roo:** Today there is a tendency to easily consider as moral that which is stat-

ed to be legal. I think we have to look very carefully at the role of the law as an educator or the responsibility of the legislator as an educator. The legislator has to think of the consequences of any law that he proposes and not only follow that which may appear popular by polling or otherwise, but he must also think of that which will effectively promote the welfare of the whole of society. In this regard I feel that moving forward too rapidly would be disastrous for this reason. I think anything which reduces the respect for life is eventually going to lead us down a very slippery road to any number of fields, and you referred to a couple. This is one of the major areas of our concern.

Did you want to add something, Mr. Daly?

**Mr. Daly:** Mr. Forrestall, I think you realize the difficulty in giving opinions on this subject, which, again, is really a matter for research. I would like to remark that in Parliament during the current session, in one area of considerable social reform—it was with regard to capital punishment—the legislators saw to it that a safeguard was included, to the effect that after five years this particular legislation would be reviewed to see just what the Canadian experiences had been. On what I would suggest are two other, equally important social changes, one with regard to divorce and the other Bill S-22 which is not yet in the House for debate, no such precaution has been taken. There has been no provision made for research, review and so on. However, it seems to me this legislation is leading into the kind of social change that raises questions of the kind you have suggested, which cannot be answered today. We can speculate on them but we cannot answer them. However, the fact is we are moving into new social experiences through, I suggest, the change in divorce and the change in the whole handling of contraceptives, but we are not providing for any research into the sort of future social atmosphere that you were talking about. I do not know why capital punishment should be given what I think is sound treatment, and these other two not given that treatment.

• 1325

[Translation]

**Rev. Lafontaine:** At the time of discussion of the death penalty in the House, a member

of parliament declared: "We have the privilege of giving an example of our respect for the sacredness of human life in a world which has serious need of it."

This is the last paragraph of the bishops' pastoral.

Already, in the House, members of parliament, one at least, admitted that the world had serious need of a lesson in respect for life. This meant that some people feared that the collective mentality developing at the time could turn away from belief in the sacredness of life.

In addition, when the bill was presented, and even before, the question was in the newspapers, in conversations, on television and words were used such as liberalization, broadening, modernization, in many terms which, for many people, signified improvement and progress. This means, therefore, that with regard to respect for life, a step backwards may be considered modernization. Here, already, are indications of the danger which a law may breed in collective attitude on such a matter.

Others, as you are aware, feel that the proposed legislation is but a step towards abortion on request.

Still others consider that the mother has the right to dispose of the child she is carrying as she feels fit. These are all aspects of the currents of thought existing at the present time, and it is perhaps this that prompted the remark in the House when the death penalty was being discussed in Parliament: "...a world which has such great need of lessons on the sacredness of life."

[English]

**Mr. Chatterton:** May I ask a supplementary question, Mr. Chairman?

Mr. Daly, are you suggesting, for instance, that if the present Bill were amended by a clause that would require a review, or that the present provisions would apply only for so many years it might be an improvement?

**Mr. Daly:** Oh yes, definitely...

**Mr. Chatterton:** Maybe by that time we will have good information.

**Mr. Daly:** ... by a commitment to government support of research in these very vital social questions.

**Mr. Forrestall:** I have one further question I would like to direct to Father Sheridan.

Earlier from a Canadian Press release—I will not attack the press until I hear your answer, Father, and perhaps not even then—I drew the conclusion, rightly or wrongly, that you had initially supported the Bill as it is now proposed in the Omnibus. Would you comment on that in the light of some of your remarks today?

• 1330

**Rev. E. J. Sheridan:** I will be very glad to comment on it to the degree that I can. I must confess that the weekend that note appeared in the press I was extremely busy. I live in a community and when I finally went late Sunday night to the common-room to look at the paper, because somebody had told me that my name had been mentioned, I could not find the paper so I never did see what actually was said. What appeared in the press or went out on the wire was the result of a telephone conversation, and while I would hesitate to say precisely the words I used, the extent of my reaction was that no theological principle with which I was familiar in any way prevented or prohibited a reconsideration of Canada's present abortion laws, and that in consequence the way was open for some sort of revision. That was the extent of it. I certainly did not approve of the bill; and to go on complete record, I do not approve of the bill as it now stands. It seems to me to open doors far too widely. And on that point I think I would like to draw the attention of all the members of the Committee to the fact that the bishops' statement on abortion contains two sections. The first is a statement of morals in which we do believe there are absolutes. The second contains a statement on legislation in which the thrust of the judgment is that this amendment of law is not satisfactory; "this amendment of law"—that is clear on page 6 in the second paragraph:

This amendment of the law not only allows the direct...

and so on. This is the important thing; that there could be envisaged other amendments which would not meet with strong opposition, with considered opposition; just that.

**Mr. Forrestall:** Mr. Chairman, may I ask His Excellency a question. In an earlier appearance before the Committee, the Catholic Hospital Association of Canada recommended the form of study to be that of a royal commission. Would the Canadian Catholic Conference, the Association of the

Roman Catholic Cardinals, Archbishops and Bishops, endorse that as a meaningful approach to the problems as we see them?

**Bishop De Roo:** The point has not been considered officially, so I am not in a position to give a definite statement. However, I believe it would be favourably considered and it will no doubt be placed before them.

**Mr. Forrestall:** Are you suggesting that this is something that might be considered by the Conference?

**Bishop De Roo:** Yes, it might be considered. And they would encourage any positive step towards further study and research.

**Mr. Forrestall:** Does it appear to you that the vehicle of the royal commission would be the best way to approach this?

**Bishop De Roo:** I must say that I would want to discuss the matter with legislators, who are in a better position to ascertain whether at this point, after the work that has been accomplished here by your Committee, there is still sufficient advantage to move to the other step of a royal commission, or if the work could not be more effectively performed by the continuation of the work that you are doing, under possibly somewhat modified form. I would hesitate, not being completely informed as to the different bodies and their value and the conditions under which they work, to state at this time whether yes or no I felt that is was so. However, we would certainly give it serious consideration.

**Mr. Forrestall:** This will be all part of one question and I think it concerns at least some of us here very gravely. I do not think this Committee can physically continue to hear briefs and talk interminally without doing some of the work that has to be done, but should we, in our conclusions...

**An hon. Member:** Go to Europe.

**An hon. Member:** Can we adjourn the Committee?

**Mr. Forrestall:** Mr. Chairman, I am not sure what that remark means or what is implied by it. I am wondering what this Committee should do. Should we, in our own collective wisdom, advise the House that we are not prepared? Do you feel that the necessity for this study is such that this Committee might well consider itself to be in such a

position that it could not file a final report, or make a final recommendation? Would you consider the question to be that unsettled?

**Bishop De Roo:** Personally, I have difficulty seeing how you would be in a position now to give a definite answer without delay. Bernard Daly may wish to comment on it.

• 1335

**Mr. Daly:** I just wanted to speak to your probing about the way the research should be done, whether by the Committee or by a royal commission. My understanding is that the design of the research is itself a very special project. I think that the Committee should look to experts in the designing of the research—planning how it should be done, where it should go, and so on. Just to drop a name—I really have no licence to do this—part of my conversation on this whole matter was with Dean Garigue of the Faculty of Social Science of the University of Montreal. I know what his feeling is about the absence of very deep social scientific probing into these questions. It is men like this, in our various universities, it would seem to me, who would help a committee like this to design and plan the research that needs to be done. It is not just a matter of deciding between this Committee and a royal commission, at least not in my view.

**Mr. Forrestall:** Thank you very much; and thank you, Your Excellency.

**The Chairman:** I wonder if I might ask a question as chairman. I want to go back to the subject of the Catholic Hospital Association of Canada, which has been mentioned just a moment ago. I see Father Mole there. Article 16 of their Moral Code says, if I may quote it:

Direct abortion is never permitted, even when the ultimate purpose is to save the life of the mother. There can be no condition of pregnancy constituting an exception to this prohibition.

Perhaps from something I have heard today, particularly, I think, from something Father Sheridan said, I gather the impression that they do not necessarily agree with this Article that direct abortion is never permitted, even when the ultimate purpose is to save the life of the mother. If that is not so, does this mean you would like the Criminal Code changed so that no abortions are permitted at all, whether the life of the mother was in jeopardy or not?

**Rev. E. J. Sheridan:** Article 16 is a statement of a code of ethics to which a number of institutions and practically all Catholic hospitals in Canada subscribe. It enshrines the doctrine of theologians, the traditional doctrine certainly of the last hundred years, and is accepted theological opinion in the Church. I take it that there has been some illumination of a distinction between "direct" and "indirect" in this Committee. That is rather important at this point. The direct abortion is the extinction of inviable foetal life, or the termination of pregnancy the foetus being inviable, and a termination which is intended. "That is the thing I wish to do; I wish to terminate life as a means or as an end. My intention is directed precisely towards that."

**The Chairman:** In this case to save the life of the mother.

**Rev. E. J. Sheridan:** Nevertheless "this is the means by which I wish to achieve that laudable and highly desirable end." The consensus of Catholic theologians is that such is an immoral procedure. That teaching is enshrined in that particular item of the Code.

**The Chairman:** You did not answer my last question. Therefore does this mean that you wish the Criminal Code amended so that abortion is illegal under any circumstance?

**Rev. E. J. Sheridan:** No. As I understand your question, that abortion is illegal under any circumstances, no. The bishops have never been in favour of tightening the present law so as to exclude abortion. Abortion is permitted under our present Criminal Code, and certainly the bishops have never moved, do not wish to move, in the direction of tightening that. In other words, we do not believe that our moral principle must be enshrined in criminal law.

**The Chairman:** Thank you.

**Mr. Forrestall:** Just as Father Mole has raised this particular article...

**The Chairman:** I quoted him without giving him an opportunity to defend himself.

• 1340

**Mr. Forrestall:** What our Chairman has referred to was indeed conferred to the Catholic Hospital Association of Canada in 1954, I understand, by the Canadian Catholic Conference then. It was administratively passed

along to them as something that might be worth their while as part of their code of ethics.

**Rev. E. J. Sheridan:** I do not know the genesis of the code of ethics of the Catholic Hospital Association of Canada. It seems to me that it was an importation to this country from the United States. At one time there was a Catholic Hospital Association of Canada and the United States. There was a division and the Canadian association simply took over the code as it was in the United States. Then, if I remember rightly, and I am rather vague here, there were some modifications made, but that particular point I believe was common to both codes and as far as I know is still to be found in the code of the Catholic hospitals of the United States.

**Mr. Forrestall:** The question being, I suppose, that there is simply no conflict within the church over this article in the code.

**Rev. E. J. Sheridan:** No. This is the teaching of theologians in the church.

**Bishop De Roo:** On the other hand I think we can introduce a valid distinction here between the role of the bishops as bishops in their teaching capacity and the responsibility of institutions such as the Catholic hospitals, and perhaps preface this comment with the remark of Pope John, that the content of doctrine is one thing and the expression of it is another. Whereas the bishops would continue to teach the content of Christian doctrine, and there would be principles which do remain firm, yet there are constant opportunities to revise and to improve the expression; and I do not think that the Catholic Hospital Association would maintain that this code, which was expressed, after all, years ago, necessarily today says in the best possible language everything that is contained in Christian doctrine as applicable to the hospitals. The matter has not actually been brought before the Canadian bishops for revision but there is no reason that at some date this might not happen, that another look might not be taken at the expression of some of these things, the content remaining firm.

**The Chairman:** Did you have a question, Mr. Cowan?

**Mr. Cowan:** I was just thinking that if they are going to change the annual report of the Department of Trade and Commerce after

that vote in the House of Commons maybe they will be changing Section 16 of the Catholic hospitals' code also.

Mr. Chairman, I did not intend to participate but since you recognized me, I will.

Mr. Daly, when you were speaking you referred several times to the "need" for abortion. Could we not say the "desire" for abortion rather than the "need" for abortion?

Mr. Daly: I accept that.

Mr. Cowan: When Father Naud was speaking he said, in respect of this amendment to the Act that is being brought in, that he thought—I wrote it down—that if the law was changed the doctors could operate with a clear conscience. I would like to say that if the amendment was brought in the doctors could operate with a legal clearance, not necessarily with a clear conscience.

A member of the Committee read to you gentlemen some of the words from the Presbyterian Church submission. I am a Presbyterian and I want to emphasize to you that in it you will find a three-word sentence, "Abortion is murder". I am a Presbyterian and I want to leave that thought with you in addition to the one that was brought forward to you later on in the Presbyterian submission. I have no questions to ask these gentlemen.

[Translation]

The Chairman: Mr. Choquette?

Mr. Choquette: I just want to ask you the following question. We receive petitions signed by various persons and these petitions result, I feel, from certain denunciations made from the pulpit in numerous parishes, more particularly in Quebec, I suppose. Could you tell me if there is a concerted plan on the part of the bishops to stimulate this propaganda designed to oppose the legislation now before the House?

Bishop De Roo: I am not aware of this, myself, but we might clarify the question.

Mr. Choquette: Has an order been given to the parish priests generally to denounce this bill from the pulpit and to see that citizens send petitions to different Members?

Rev. Lafontaine: There was no order sent out to denounce the legislation from the pulpit or to encourage groups to send petitions. However it is clear that, on reading the pastoral statement of the bishops, on this question,

some clergy and laity drew inspiration therefrom for their subsequent thoughts, judgments and action. I know of lay groups in the Province of Quebec—and I can name one, *Les Foyers Notre-Dame*—who have not been invited to undertake a campaign against the legislation by their religious authorities, but on their own, even before the pastoral letter was published, found that they had to express themselves and to give witness of their convictions on this point. It is clear that when the pastoral letter appeared, they felt it was an encouragement. I know, for example, that that group, and there are others, held a meeting at Le Plateau school in Montreal. They invited people and Le Plateau was full. I know that other groups, simply because they were interested, held study evenings and invited panelists, surgeons, lawyers, and doctors to get better information. But I think all of this is a sign of interest, on the one hand, a desire to get information, and on the other, a will to express themselves in a democracy.

Mr. Choquette: There is no concerted plan on the part of the bishops?

Rev. Lafontaine: No.

The Chairman: Are there any other questions?

Mr. MacDonald (Prince): I apologize for detaining those who have presented this brief any longer than necessary but you realize that inasmuch as you are the last and perhaps one of the most important groups that has been before this Committee we want every opportunity to explore fully your presentation.

Throughout the course of your presentation you emphasize the importance of respect for life and the importance of respect for life as being part and parcel of your position. I do not think by that statement you would want in any way to downgrade other church groups as well as other broadly based groups in our society who have appeared and who also feel that their particular position is very much based on their concept of respect for life. Is that not correct?

Bishop De Roo: Yes. Far from wishing in any way to appear as sitting in judgment on the other groups or downgrading their moral principles and convictions, I would say that we not only admire the sincerity with which they approach this question but we also recognize in them a similar respect for life. I feel that we do have very much in common in

a positive way, and we referred to this earlier; and I would hope that we might continue to work together to develop precisely these common positive approaches based on some general principles to which we all adhere.

**Mr. MacDonald (Prince):** Now at the very beginning, Bishop De Roo, you indicated that there had not been any actual consultation on this question although there has been extensive consultation on other related matters. You do say that we are at a point where you feel, as other groups have mentioned, that we do not have sufficient information to make firm decisions, and I am wondering whether you would not only enter into a consultation but perhaps in concert with other churches do a certain amount of basic research on this whole question. I do not want to appear to chastise you but it does seem to me—and you are not the only group to do this—in coming before this Committee and suggesting that we must do a great deal more in respect of family life and the social question generally, that churches or other groups may be abrogating some of their basic responsibilities and certainly if the church does not perform this vital role, the dimension that the churches have to contribute will be lost, because undoubtedly it is true that when governments, royal commissions or committees enter into these kinds of questions, they bring to it their own particular vantage point, which may not necessarily be that contribution the church can make.

• 1350

**Bishop De Roo:** I want to be the first to accept your chastisement; I think it is legitimate. However, it is one thing to desire common ecumenical approaches, working together, and it is another thing effectively to bring this into being. It seems that with each new

problem we meet we have to, in a sense, start all over again. We do intend to, however, and possibly Bernard Daly, who has been closer to the other issues can give you some background on what effectively has been done.

**Mr. Daly:** I will give you just one little bit of information. In December there was a joint consultation between the Canadian Council of Churches and the Canadian Catholic Conference which resulted in that consultation group agreeing on a resolution that the two major bodies, the Canadian Council of Churches and the Canadian Catholic Conference, should form a joint working group, as it is called, for this very purpose. The process of ratifying that resolution, I think, now has been completed in the Canadian Council of Churches and it is coming before the Canadian Catholic Conference. These, to me, are little forecasts of our acceptance of your chastisement.

**Bishop De Roo:** A further illustration which I think is significant on the international scene is the recent decision by the World Council of Churches and the Roman Catholic Church to work together with one combined committee on the major problems that society is facing today; development, peace, hunger and so forth. This is now a fact, they are publicly committed, so I think there is progress and positive steps are being taken. Bringing them down to the grass roots, of course, is a perpetually renewed struggle.

**The Chairman:** Are there any other questions? If not, I thank the Canadian Catholic Conference that is represented by the Most Reverend Bishop De Roo and his colleagues for coming before us today and giving us the stand of the Canadian Catholic Conference. Thank you very much, gentlemen.

## APPENDIX "XX"

## CANADIAN PSYCHIATRIC ASSOCIATION

Suite 103, 225 Lisgar Street

OTTAWA 4, CANADA

February 21, 1968

Harry Harley, Esq., M.P.,  
Chairman,  
Committee on Health and  
Welfare,  
House of Commons,  
Ottawa.

Dear Mr. Harley:

The Board of Directors of the Canadian Psychiatric Association has directed me to write to you concerning the amendment to the Criminal Code of Canada which refers to therapeutic abortion and which is presently before the House.

At a recent meeting of our Board of Directors the consensus of the members was that very often the health threat of pregnancy to the mother is regarded as a mental health problem and the opinion of a qualified psychiatrist is frequently sought. Therefore, the Board established a new committee to study the psychiatric aspects of therapeutic abortion with the following terms of reference:

(1) To study and determine the facts concerning indications for and results of such procedures undertaken on psychiatric grounds and the possible psychiatric effects of refusal to carry out such procedures.

(2) On the basis of these findings, to attempt to evolve principles and criteria as guidelines for psychiatrists in considering recommendations for interruption of pregnancy.

The following senior members of this Association have been appointed to this commit-

tee with power to add corresponding members:

## Chairman

— Dr. Alan J. Preston,  
Assistant Professor of Psychiatry, University of Toronto, and Chief, Department of Psychiatry, Toronto Western Hospital.

## Members

—Dr. K. G. Gray, Q.C.,  
Professor of Forensic Psychiatry and Lecturer in Medical Jurisprudence, University of Toronto; and Senior Consultant, Clarke Institute of Psychiatry, Toronto.

—Dr. Stanley Greben,  
Assistant Professor, Departments of Medicine and Psychiatry, University of Toronto; and Staff Psychiatrist, Wellesley Hospital, Toronto.

—Dr. Stanley Greben,  
Assistant Professor of Psychiatry and Associate Professor of Medicine, University of Toronto; and Director, Department of Psychiatry, New Mount Sinai Hospital, Toronto.

— Dr. Mary V. Jackson,  
Associate Professor of Psychiatry, University of Toronto, and Assistant Medical Director, Clarke Institute of Psychiatry, Toronto.

In addition to informing you of this new committee, within the framework of our national Association, we are most anxious to express the willingness of the Canadian Psychiatric Association to be of any assistance to you within its capabilities.

Yours sincerely,  
W. A. Blair, M.D.,  
Secretary

APPENDICE «YY»

CENTRE D'ACTION FAMILIALE

Sherbrooke (P.Q.),  
Le 7 février 1968

D<sup>r</sup> Harry C. Harley, Président.  
Comité permanent de la Santé  
et du Bien-être social de la  
Chambre des Communes.

Monsieur le président,

Les membres du Conseil d'administration de la Corporation du Centre d'Action Familiale de Sherbrooke désirent vous faire part de la position de l'organisme qu'ils dirigent relativement au projet de la loi sur l'avortement que votre comité prépare pour la Chambre des Communes.

Nous sommes en effet d'avis que le Bill C-122, tel que rédigé, amènerait de fréquentes violations des droits de personnes humaines en puissance, puisque la science ignore encore à quel moment le fœtus devient un être humain, alors que nous n'ignorons pas que ce même fœtus est le début d'une vie.

Nous estimons que dans notre civilisation le respect de la vie d'autrui a toujours été consi-

déré comme une valeur de base que votre ordre de valeur et notre législation ont jusqu'à maintenant sauvegardé. Nous croyons que l'adoption de ce Bill va à l'encontre de nos conceptions et constitue un précédent qui risque de perturber gravement l'ordre social établi. Nous ne croyons pas que les inconvénients d'une grossesse non désirée ou le risque de mettre au monde un enfant anormal justifient une intervention qui va contre l'ordre naturel de la transmission de la vie. Par ailleurs, nous convenons de l'opportunité d'amender la loi de façon à rendre légale l'intervention médicale ou thérapeutique nécessaire pour sauver la vie de la mère.

Voilà, monsieur le Président, une expression d'opinion que nous croyons de notre devoir de vous communiquer en tant que couples directeurs d'un organisme voué au service et à la défense de la famille.

Recevez l'expression de notre considération,

Le Centre d'Action Familiale,

Jean Thibault, président,  
et madame Louise Thibault.

## APPENDIX "ZZ"

[Translation]

L'ASSOCIATION DES HOPITAUX  
DE LA PROVINCE DE QUÉBEC(Province of Quebec Hospital  
Association)Head Office:  
235 Dorchester Blvd. E.,  
Montreal 18,

February 12, 1968.

Mr. Harry C. Harley,  
Chairman,  
Standing Committee on Health and Welfare,  
House of Commons,  
Ottawa.

Dear Mr. Harley,

Allow me to draw to your attention a resolution which was officially approved by the Board of Directors of the Province of Quebec Hospital Association, at a regular meeting held on February 8, regarding the bill on therapeutic abortion:

"Considering the importance and the complexity of this question;

—whereas all the studies required for the adoption of a valid resolution are not completed;

—whereas respect for individual conscience should be ensured;

*It is resolved:*

—to recommend to the Standing Committee of the House of Commons on Health and Welfare:

—that parliamentary debate on the bill be delayed so as to allow more exhaustive study;

—that this bill not be presented as part of an omnibus bill;

—that, in the event of liberalization of the law as regard therapeutic abortion, no person or institution be required to participate in an operation which is contrary to the dictates of his (its) conscience;

—that in the event of refusal by a person or institution to participate in an abortion, this person or institution be protected against legal action."

We have enclosed some information on our Association.

It is our hope that you will be able to give this recommendation your fullest consideration.

Yours truly,  
(signed) Michel Dubreuil,  
Director general.

PROVINCE OF QUEBEC HOSPITAL  
ASSOCIATION

## A) HISTORICAL BACKGROUND

The Province of Quebec Hospital Association was founded in January 1966. It was formed by the amalgamation of the Association des Hôpitaux Catholiques de la Province de Québec. (Province of Quebec Catholic Hospital Association) and the Quebec Hospital Association.

In view of the many changes which have occurred within a very short period and to avoid any confusion, we should point out that:

—the Province of Quebec Catholic Hospital Association had been founded in August, 1962, by an agreement between the following four bodies:

Conférence des Hôpitaux Catholiques de Québec (Quebec Conference of Catholic Hospitals) (founded 1932)

Conférences des Hôpitaux Catholiques de Montréal (Montreal Conference of Catholic Hospitals) (founded 1932)

Association Patronale des Services Hospitaliers (Hospital Services Management Association) (founded 1944)

Comité des Hôpitaux du Québec (Quebec Hospitals Committee) (founded 1948)

—the Quebec Hospital Association (QHA-AHQ) had been founded in the fall of 1956.

## B) LEGAL STATUS—MEMBERS

The Province of Quebec Hospital Association was incorporated under the terms of the Companies Act, part three.

The P.Q.H.A. now has 200 member hospitals, with approximately 50,000 beds, or more than 90 per cent of all hospital beds in the Province (excluding Federal Government hospital beds).

The head office of the P.Q.H.A. is located in Montreal, at 235 Dorchester Blvd. E., Room 103.

### C) NATURE AND AIMS

The Province of Quebec Hospital Association is a professional intermediary body.

As a professional body, the P.Q.H.A. attempts to assist its member hospitals:

- to become aware of their responsibilities;
- to carry out their responsibilities more fully.

As an intermediary body, the P.Q.H.A. attempts to:

- represent hospitals in their dealings with public bodies;
- offer to government bodies the collaboration of the hospital world.

### D) PROGRAM OF ACTIVITIES

#### 1. *Public Relations*

(a) Keep informed of public opinion as regards to hospitals:

(b) Help the public to understand the hospital:

- Talks to social clubs;
- Provincial Hospital Week;
- Press releases;
- Organization of hospital visits by the public;
- Assistance to hospitals in organizing their own public relations programs.

(c) Express the opinions and positions of the P.Q.H.A.

(d) Provide members with continual information.

#### 2. *Education*

(a) Keep informed of hospital and hospital staff needs in the field of education.

(b) Keep informed of the facilities available.

(c) Inform members and the public of existing facilities.

(d) Co-ordinate facilities to avoid duplication.

(e) Recommend the expansion of current courses or the creation of new ones, when necessary.

(f) Provide, when necessary;

- Training courses for staff where schools are not available;
- Assist hospitals in establishing "on-the-job training courses" or "continuing education".

(g) Assist the administrative staff in adapting more satisfactorily to new situations: special sessions to study topical questions.

#### 3. *Labour relations*

(a) Labour contract negotiations. Preparation of recommendations for non-union staff.

—Research and compilation of information.

—Consultation with hospitals.

—Consultation with government.

—Negotiations or discussions with the groups concerned.

(b) Application of labour agreements:

—Assist hospitals in interpreting labour agreements.

—Participate on committees set up by labour contracts.

(c) Assist hospitals with specialized matters, e.g.:

—Scientific organization of work.

—Improvement of staff motivation.

#### 4. *Research and information*

(a) Encourage university and government-level research projects and participate in these projects: e.g.

—Establishment of operational standards.

—Planning the hospital system.

(b) Assist hospitals in solving certain particular problems:

—Information service.

—Advisory service.

#### 5. *Pastoral activities*

(a) Assist hospitals in carrying out more fully their responsibilities for the spiritual needs of the sick: research, consultation, information.

(b) Spread the Christian message: courses, study days, publications.

(c) When necessary, act as intermediary between civil and religious authorities.

### E) ORGANIZATION

To carry out this program, the P.Q.H.A. has established an organization composed of:

—administrative and advisory bodies;

—a permanent administration.

#### 1. *Administrative and advisory bodies*

General Assembly

Board of Directors

Executive Committee

Regional Councils  
Advisory Committees  
Commissions  
Ad hoc committees

These bodies are made up of members who participate on a voluntary basis, without remuneration.

Through these bodies, the P.Q.H.A. is in constant contact with all the sectors of the hospital world, and is thus able:

- to seek assistance from all qualified sources in this sector;
- to distribute information rapidly.

## 2. Permanent Administration

Under the authority of the Director General:

6 permanent departments:

- Public Relations
- Education
- Labour Relations
- Research and Information
- Pastoral Activities
- Secretariat

## F) LIST OF MEMBERS OF THE BOARD OF DIRECTORS

### Chairman:

Dr. André Pothier  
Medical Director  
Hôpital Sainte-Marie  
1991 boul. du Carmel  
Trois-Rivières, Que.

### Vice-Chairman:

Mr. A. H. Westbury  
Chief Administrator  
Hôpital Julius Richardson  
5425 Bessborough  
Montreal 29, P.Q.

Mr. Roger Lepage  
Assistant Chief  
Administrator  
Hôtel-Dieu de Lévis  
143, rue Wolfe  
Lévis, P.Q.

### Secretary-Treasurer:

Mr. Paul-Émile Olivier  
Chief Administrator  
Hôpital Jean-Talon  
1385 est, rue Jean-Talon  
Montreal 35.

### Members:

Mr. Jean-Jacques Minguy  
Chief Administrator  
Hôpital Christ-Roi  
300 Boul. Wilfrid-Hamel  
Quebec 8.

Dr. Gaston Rodrigue  
Medical Director  
Hôpital Sainte-Croix  
570, rue Heriot  
Drummondville, Que.

Mr. Gilles Gaudreault  
Chief Administrator  
Hôpital-Dieu de Roberval  
Boul. St-Joseph  
Roberval, P.Q.

### Directors:

Mr. P. A. DeBellefeuille  
Chief Administrator  
Hôpital St-Louis  
23, rue Dearden  
Windsor, P.Q.

Dr. Paul Bourgeois  
Deputy Chief Administrator  
Hôpital Notre-Dame  
1560 est, Sherbrooke  
Montreal 24.

Mr. Samuel S. Cohen  
Chief Administrator  
Jewish General Hospital  
3755 Côte St. Catherine Road  
Montreal 26.

Rev. S. Pauline Frenette  
Chief Administrator  
Hôpital St-François d'Assise  
1605, 1<sup>re</sup> Avenue,  
Quebec 3.

Mr. Roger Gauthier  
Chief Administrator  
Hôpital Chibougamau, Chibougamau, P.Q.

Mr. Horace Lamarche  
Chief Administrator  
Hôpital Argenteuil  
Chemin Brownsburg  
Lachute, P.Q.

Mr. Jacques Laliberté  
Comptroller  
Hôpital de l'Enfant-Jésus  
1401, 18<sup>e</sup> rue  
Quebec 3.

Mr. J. C. Mathieu  
Assistant Chief  
Administrator

Hôpital St-Michel Archange  
Rue La Canardière  
Quebec 5.

Rev. S. Mary Melanie  
Chief Administrator

St. Mary's Memorial Hospital  
3830 Lacombe Avenue, Montreal 26.

Mr. Albert Nantel  
Chief Administrator

Hôpital Ste-Jeanne d'Arc  
3570, rue St-Urbain  
Montreal 18.

Rev. S. Liliane Péloquin  
Chief Administrator

Hôtel-Dieu de St-Jérôme  
290, rue Montigny  
St-Jérôme, P.Q.

Dr. Edmond Synnott  
Chief Administrator

Hôpital Maisonneuve  
5415, boul. l'Assomption  
Montreal 36.

Dr. J. Gilbert Turner  
Chief Administrator

Royal Victoria Hospital  
687 Pine Avenue West  
Montreal 2.

Mr. Télesphore Tremblay  
Comptroller

Sanatorium St-Georges  
Mont-Joli, P.Q.

G) *Director General*

Mr. Michel Dubreuil

Province of Quebec Hospital  
Association  
235 Dorchester Blvd. E.  
Room 103, Montreal, P.Q.

## APPENDIX "AAA"

STATEMENT OF THE VIEWS OF R. I. DUNCAN,  
ASSISTANT PROFESSOR—BIOPHYSICSFaculty of Medicine, University of Western Ontario,  
London, Canada

## ON THE SUBJECT OF ABORTION

The whole question of abortion resolves itself into a problem of personal expediency on the one hand and religious doctrine on the other.

Abortion is untenable under any circumstances for some religious groups. Other religious groups would allow it under certain circumstances. Still others would allow it under almost any reasonable circumstances. But probably all Christian religions and sects would limit, in some degree, abortion.

Many arguments have been put forth to strengthen the various points of view of the anti-abortionists.

(1) The individual from the moment of conception has a soul, and is, therefore, to be protected and deserves all the consideration and protection afforded a grown individual. Inasmuch as the protagonists of this theory have no more than belief on which to base their contention then I reserve the right to dismiss this argument out of hand on the grounds that I do not share their belief. If they demand the right to their beliefs then I demand the right to my disbeliefs. If these may be considered emotional arguments, without invoking the concept of the soul, then they can be neither answered nor rebutted. I plead that I require legalized abortion to satisfy my emotional needs. Balancing a one, two, three or four-month fetus against the mother, father or other children results in nothing more than the premise I started with. It is a problem of personal (or familial) expediency. I desire legalized abortion for myself and do not wish to inflict my mores on others. I demand that they do the same for me. Nothing that I suggest here requires any person to accept my ideas, except insofar as to change the law.

(2) There are those who would argue that abortion is permissible until the embryo or fetus is capable of independent life under the proper circumstances. This is completely fatuous inasmuch as embryonic tissue from many mammals (including man) has been kept alive in culture vessels (which in this case constitute the proper conditions) for long periods of time. Indeed, there is a cell line, known as HeLa cells, which is one of the most common cell lines with which tissue culture laboratories work. This cell line is descended from a cervical cancer and has proliferated until there is a far greater amount of tissue belonging to the person from whom it was derived than the 125 pounds which constituted that person when she was alive. By turning the argument of independent viability back on these partially-pro-abortionists, their argument is invalidated.

(3) There are those who argue that abortion is a dangerous operation. It is not. Done in an operating theatre using standard surgical techniques the frequency of complications is from one-sixth to one-tenth that of normal, healthy, full term deliveries. The surgery known as dilatation and curettage is standard procedure in any hospital and is very simple. The intrauterine infusion of sodium chloride solution used for abortion induction in Scandinavia is even simpler and is the procedure on which the above complication rate is based (one-sixth to one-tenth). The spread in this complication rate depends on what is included in the normal healthy full term delivery. The fewer slightly abnormal conditions that are included in the normal category the smaller the difference between fluid-infusion-induced-abortion complication rate and full term delivery complication rate.

(4) There are those who say it is an expensive form of birth control. Agreed. But no form of conception, implantation, ovulation or

sperm control is perfect. Some of the anti-ovulatory drugs approach complete control but their side and, as yet unknown, long term effects make them undesirable. Abortion can then remove the one or two unplanned pregnancies per 100 woman years of exposure. Thus abortion constitutes a last line of defense against unwanted pregnancies.

(5) There are those who say that the hospitals would quickly fill with women having abortions. If a woman is pregnant she will, within nine months, require the use of the hospital, and probably for 6 or 7 days. For an abortion, the woman can enter the hospital in the morning and be discharged by the next day at least, and probably the same day.

There are those who would say that this letter contains a very selfish viewpoint. I agree. But then I am giving my own viewpoint and maintain that this is not as selfish a viewpoint as that espoused by those who would make everyone conform to their own system of mores and ethics. They are being more selfish than I when they impose their will on others.

I am not in favour of a three-physician formal committee to adjudicate an abortion request. The woman or couple and the physician should be the only individuals interested or involved. The unwanted pregnancy is a medical problem in the same way that an inflamed appendix or a tumour is a medical problem and should be treated in the same way.

## APPENDIX "BBB"

## ABORTION, RIGHT OR WRONG

February 19, 1968  
Mr. P. Adams,  
4215 rue Brébeuf,  
Montreal.

## PART I

1. The following is an analysis of three positions taken both for and against abortion.

(A) Abortion is murder (abortion is always wrong with no reservations).

(B) Abortion is murder unless the physical or mental health of the pregnant woman will be seriously affected by a continuation of the pregnancy (abortion is wrong with exceptions).

(C) Abortion should be legalized (the decision of an abortion should be left up to the individual).

2. Referring to the first—abortion is murder, human life is created upon conception, an abortion then, is the taking of a life. But the taking of a life does not preclude that this act is an act of murder. In our society, it is a fact that the taking of a life after birth can be a necessity under certain circumstances which would not be considered as murder.

3. A law against abortion, with no reservations, assumes that the taking of a life by abortion is always murder.

4. But when many objections are made against such a law, and many reasons are given for the objections, it can no longer be assumed that abortion is always an act of murder.

5. Referring to (B), abortion is murder unless the physical or mental health of the pregnant woman will be seriously affected by a continuation of the pregnancy. (abortion is wrong with exceptions).

6. This assumes that mental and physical health are the only grounds justifying abortion, whereas poverty, for one, could be a very real reason for abortion to some families.

7. Referring to (C), abortion should be legalized. (the decision of an abortion should be left up to the individual).

8. Since the act of abortion is the taking of a life, a charge of murder must be maintained for the protection of society and to set in motion those responsible for this protection. Just as the act of abortion cannot always be assumed to be an act of murder, neither can it be assumed that it is never an act of murder.

9. If abortion is not always an act of murder nor always an act of necessity, the question becomes one of what circumstances constitute an act of murder and what circumstances do not constitute an act of murder.

10. The more reasons for an abortion in an individual case, and the greater the seriousness of these reasons, the more an act of abortion becomes one of necessity and less an act of murder.

11. Two points of view must be considered: the point of view of the public and the point of view of the individual, i.e. A, what constitutes a necessity for such an act in the opinion of the public, and B, what constitutes a necessity for such an act in the opinion of the pregnant woman.

12. Referring to A—the opinion of the public; The many and varied opinions which have been made on abortion form one conclusion—That the circumstances which constitute a necessity for the act of an abortion varies widely from one of non-tolerance of any circumstances to one of complete liberalization.

13. Referring to B—the opinion of the pregnant woman; The circumstances which constitute a necessity for the act of an abortion in the opinion of the pregnant woman do not have to be defined since, if the decision to have or not have an abortion is left to the pregnant woman herself by the public, it is only this woman who must decide what constitutes a necessity for an abortion for herself. If this woman publicly announces her reasons for such an act, then it becomes a question of what the public believes constitutes a necessity for such an act.

14. When the circumstances which would constitute a necessity for the act of an abortion are not unanimously agreed upon by the public, it becomes necessary to decide both

how to arrive at a decision and/or who should have the right to make such a decision.

15. The following are seven possibilities:

1. By a majority opinion of the public;
2. By a majority opinion of only women of child bearing age;
3. By the pregnant woman herself;
4. By past examples, facts and statistics;
5. By a logical analysis;
6. By a government committee; or
7. By a court decision on each case.

16. The final decision by legislation on abortion will fall into one of the following three categories:

1. Fixed rulings for all cases;
2. Independent decisions made on each individual case; or
3. A combination of these two.

17. Of the seven possible methods of deciding how and/or who should have the right to make decisions on abortion mentioned in paragraph 15, Page 3;

Numbers 1,2,4,5, and 6 would create fixed rulings for all cases; number 3 would be an independent decision made on each individual case, and 7 would be a combination of these two.

18. Fixed rulings are good for the public but bad for the individual because they create an 'overpowering' law which upholds the opinion of the public, but which acts regardless of the situation or circumstances an individual may be in.

19. It would be virtually impossible to designate every condition which would constitute a necessity for an abortion. To begin with, this would mean, having to designate conditions which would certainly occur but which we have not yet experienced. It would require a knowledge of every condition which will occur in the future.

20. For some people, some conditions would not constitute a necessity for an abortion, for others, these same conditions would constitute a very real and necessary condition for abortion. This depends on such things as the health of the individual, age, upbringing, and standards of living.

21. Any person, who is strong enough in body and mind to overcome certain condi-

tions, should not impose his opinions upon another less fortunate person.

22. Referring to no. 7, paragraph 15 page 3; The possibility of an independent ruling by a court for every case would be impracticable for the reason of the number of cases which would have to be heard.

23. Part II discusses the possibility of allowing the pregnant woman to decide for herself what constitutes a necessity to undertake the act of an abortion.

## PART II

Upholding the protection of the foetus in the absence of a law against abortion.

24. A child is the basic desire of every woman; it is this desire of woman that will always uphold the protection of the foetus. It is only when circumstances make conditions impossible for a new child that a woman will resort to abortion.

25. With a complete liberalization of abortion, any church or group whose religion or belief is against abortion would be free to expect its members to adhere to its religion or belief.

26. If the members of a church or group follow the principles of their religion or organization, then, for these people a law against abortion is not necessary.

27. If the members of a church or group do use abortion, this church or group should not expect others to follow this belief.

28. If a church or group wishes to extend its belief to others, first, this would be accomplished automatically if their own members follow this principle against abortion. Just as any popular belief will spread and gain popularity. A church or group could make its views known by word of mouth, pamphlets or lectures among other groups. The more correct this belief is, all things considered, the faster it will be accepted and adhered to by others. If it is not normally accepted by others, a church or group should not advocate a law which would force people to follow its will.

29. Every individual who opposes abortion should make his views known to his family and friends. If his family and friends follow his opinions, then for these people a law against abortion is unnecessary.

30. The more people who denounce abortion among their family and friends, and the more of these people that follow this opinion, the less a law against abortion is required. The fewer people who follow a belief against abortion the less a law against abortion would be right.

31. Moral values are maintained by the conscience of man. Moral values are goals for man to achieve, but they cannot be achieved simply by making a law demanding a person to be moral.

### PART III

32. Abortion is often made necessary by poverty or the lack of ability to care for a new child. In such a case, if a woman is given an acceptable alternative to abortion, such as social aid for the new child, she would accept this alternative. When a woman accepts an alternative, a law against abortion is not required. When there is no acceptable alternative, an abortion becomes the most desirable thing, unfortunate as this is.

33. The act of the taking of a life by abortion is an easily defined and understood action. But the personal suffering, the social and financial hardships a woman must bear perhaps for the rest of her life who must keep a child against her will, is a less easily defined and understood condition. It is for this reason that the great moral sin of an abortion does not seem to be justified.

34. For any male to presume that he has the right to judge whether a woman should be permitted or should not be permitted to have an abortion is the height of hypocrisy. Woman is raped by the male or seduced under false pretenses of love. We have created severe laws of punishment for ourselves if convicted of rape, admitting the seriousness of the

injustice to woman, but then we maintain a law which forces a woman to keep a child we have forced onto her.

35. The law against rape offenders is good depending on the case. It takes the job of defending wives or daughters out of the hands of husband or parent and places it with our police force. It acts as a deterrent to would be rape offenders. But that a rape offender is convicted to years in jail is of little consolation to a woman. When rape results in a pregnancy, abortion gives the woman the opportunity to rid herself of the pregnancy and the unlimited and never ending problems this would create.

### CONCLUSION:

36. It is the personal conclusion of the author of this report, judging by all known considerations, that the lives of both the foetus and the pregnant woman are dependant upon each other to such an extent, that the public should not be allowed to interfere. That only the pregnant woman herself can decide which is the morally right or wrong thing to do. That the decision to either have or not have an abortion should be that of the pregnant woman.

37. To guard woman's rights, by preventing others from influencing a woman against her will in her decision to either have or not have an abortion. It should be accepted that no person will give advice nor make suggestions to a pregnant woman, either for or against abortion, without being specifically requested by the pregnant woman for this advice or opinion.

38. Family planning centres should be established in our towns and cities to help avoid unwanted pregnancies.

Mr. P. S. Adams

# APPENDIX "CCC"

## HULL-GATINEAU ACTION COMMITTEE AGAINST ABORTION

### A BRIEF TO

### THE HOUSE OF COMMONS STANDING COMMITTEE

### ON HEALTH AND WELFARE

### RESPECTING ABORTION

Mr. Chairman: Honourable Members of the House of Commons.

In a few days your Committee will conclude its studies and deliberations on the subject of Abortion. After having read the "Minutes of Proceedings and Evidence", the members of the HULL-GATINEAU ACTION COMMITTEE AGAINST ABORTION believe it to be their duty to reveal their views and worries on this subject.

#### 1. IS THE SUBJECT OF ABORTION IMPORTANT?

Many among you certainly agree with us that there can be no more important subject because it deals with the life or death of countless human beings. The decision on this matter will be of paramount importance, because Parliament will either set aside, or retain, the philosophy upon which our laws and social values are based.

#### 2. DID THE PROBLEM RECEIVE ENOUGH STUDY?

Normally, when important and complex issues confront the Nation, qualified personnel and financial resources are not spared so that thorough studies can be carried out, and informed decisions reached. Has the study of Abortion been carried out with sufficient care:

how many people have studied the question?

from what fields were the experts drawn who engaged in this study?

what amount of time was devoted to it?

what amount of money was spent?

There is, you will agree, a great difference between a collection of opinions and a real study. At the end of the deliberations of your Committee on the subject of abortion, who is able to say with certainty that they know what are the characteristics of the women

who have abortions? What are their problems when their pregnancy beings? Whether abortion is the proper solution to these problems?

If this information is not available in Canada, was the evidence from those countries where abortion has been legal for many years available to the Committee? Can it be accepted that the few statistics presented by individuals of varying competence, throw enough light on this most important and complex subject?

#### 3. WHAT SOLUTIONS HAVE BEEN PROPOSED TO SOLVE ILLEGAL ABORTIONS?

It is simply proposed to legalize some abortions—those which would save the life or the health of the mother. There is no solution proposed for clandestine abortions, the causes of which have not been sufficiently identified, unless the word "health" is to be interpreted in such a broad sense as to include all the motives of those women who seek abortions. Would not the common good be better served if, before passing a law that would attack human life, our legislators would take five, or ten years to make the necessary studies required to determine the need for such a law, and give rise to social measures to help needy mothers and family policies to eliminate the need for abortions and assist families to rear our citizens of tomorrow.

#### 4. IS IT NOT THE DUTY OF THE STATE TO PROTECT HUMAN LIFE?

Because our whole set of basic social values is based on the respect accorded to the right to life, as a fundamental human right, Parliament has a duty to protect every human life and to publicly recognize this duty by the laws it enacts.

## 5. WHAT IS THE REAL MEANING OF BILL C-195?

The Government bill now before Parliament would legalize abortion for undefined "health" reasons, capable of the broadest interpretation. It offers no real guidelines, leaving these to the wide discretion of hospital abortion committees. In effect it would tell the medical profession, "doctors, the problem is yours".

## 6. IS ABORTION JUST A MEDICAL PROBLEM?

This might be justifiable if abortion were indeed just a medical problem. But in fact it is not. Abortion is no ordinary medical procedure, but the destruction of unborn human beings. This is admitted not only by doctors who oppose abortion, but also by those who sanction and perform it.

Of all the medical witnesses to appear before the Health and Welfare Committee, only one has seriously attempted to deny this fact, (Dr. Henry Morgentaler of Montreal).

We shall not review the logical and scientific proofs that an unborn child is indeed a human being. But we note the opposing argument that it is only a "potential" human being. This is an evasion to avoid saying what it actually is.

## 7. IS ABORTION NOT A VALUE JUDGMENT, RATHER THAN A MEDICAL JUDGMENT?

Some doctors may question the *value* of the life destroyed by abortion. But *value* judgments are not medical judgments, and doctors are no more competent to make them than anyone else. And yet, Bill C-195 would confer on them the final authority to judge the worth of an unborn human life. It would allow some to value this life as cheaply as they like, all in the name of the mother's "health".

We shall be told, of course, that "no reputable doctor" would sanction abortion for any trivial reason. But what about those who would? Bill C-195 would provide not the slightest check upon them, except the need to find a "liberal" abortion committee. Such committees can exist, and Bill C-195 would in no way control them.

But no group of doctors, however upright and responsible, should have authority to judge the worth of any human life. For judgments of this kind involve the basic values of our society, for which all must be responsible. The value of human life—*any* human

life—is a fundamental issue that concerns every one of us. We cannot leave it, therefore, to be decided by the medical profession or by any other such group.

With regard to abortion, then, Bill C-195 is an abdication of public responsibility. For abortion is *not* essentially a medical problem, but an issue of public policy involving basic social values and human rights.

## 8. WHAT IS MEANT BY THE "VALUE" OF HUMAN LIFE?

We must avoid the pitfall of confusing different meanings of "value". Property has value, and so does human life; but clearly these are two different kinds of value. Property has value for *human beings* and their purposes; but a fundamental premise of our society is that human life has *value in itself*.

Human beings have both kinds of value—their value to others and their intrinsic worth as human beings. To confuse the two is dangerous, leading to a philosophy of pure expediency. This would sacrifice the individual to the State or community, or minority rights to the advantage of majorities. This same alien philosophy, moreover, would sacrifice an unborn child to the "welfare of the family".

If we regard only the worth of a human being to others, then *any* human life may be expendable. A helpless invalid, an unwanted tramp or derelict may have no obvious value to any one; if this were the only value that mattered, we might therefore destroy him without compunction. We do not permit this, though because we also recognize the *intrinsic* worth of human life.

## 9. DOES EVERY HUMAN LIFE HAVE EQUAL VALUE?

In every human life, moreover, we see the *same* intrinsic value. This is basic to our concept of justice—that all human beings are equal before the law, with precisely the same right to life. This does not depend on their physical perfection or power of intellect. It does not depend, either, on their full possession of normal human faculties.

The life of a blind man or a cripple has the same intrinsic value as the life of any other person; and the life of a retarded child—or a baby still incapable of reason—is no less precious than the life of a genius. We must therefore recognize the full human worth of a child in the womb, and its equal right to life as a human being.

The value of this unborn life is sometimes falsely contrasted with that of someone "already living" or "already here". But an unborn child is also "already living" and "here". The essential difference is that this child is hidden in the womb, and therefore more easily ignored.

# 10. DOES HUMAN LIFE HAVE A RIGHT TO PROTECTION?

As a human being it is entitled to the same protection as a child already born. To the fullest extent possible, its right to life must be guarded and respected. Except in the rarest circumstances, to legalize abortion would be a violation of the State's clear duty to protect human life.

An exceptional circumstances might be when the mother would die unless an abortion were performed. It then would be impossible to save the child, since the death of the mother would mean the death of both. But whenever we *can* save the child, it has a right to our protection.

This rules out abortion for any other reason than to save the mother's life. It rules it out, for instance, as a way of increasing the mother's life expectancy. To justify abortion for this reason implicitly denies that all human lives have equal value; for it takes for granted that a few years added to the mother's life are more important than the child's whole normal lifetime.

This BRIEF will achieve its purpose if we can share with the Members of Parliament these questions which we are asking ourselves:

(1) Is the problem of Abortion important?

(2) Did this problem receive enough study?

(3) Were any solutions proposed to the problem of illegal abortions?

The members of the HULL-GATINEAU ACTION COMMITTEE AGAINST ABORTION believe that abortion is not a medical problem only as Bill C-195 would lead us to

believe, but that it is a problem that requires value judgments. We believe also that the State has the clear responsibility to protect human life, and that Parliament has the duty to make laws in this area.

## CONSEQUENTLY WE ASK:

(1) that further and better studies on the subject of abortion be carried out before any changes are made in the law,

(2) that positive measures be devised to alleviate the social pressures that might lead women to seek abortions, and that sufficient time be taken to evaluate the results of these measures before human life is condemned,

(3) that the necessary services be established to inform and educate the public in family life, sexuality, and birth regulation rather than adopt precipitously the "curative" measure of abortion where preventative measures have not been tried,

(4) that meanwhile the Parliament of Canada reaffirm the respect which the Canadian people hold for human life, by clarifying the law, while rejecting those provisions which would widen the grounds for Abortion.

Respectfully submitted on this fifth day of March, nineteen hundred and sixty-eight by the HULL-GATINEAU ACTION COMMITTEE AGAINST ABORTION.

Joan Lusignan (Mrs.)  
13 Boulay St., HULL  
(Chairman, English Section)

Mary Bradley (Mrs.)  
24 Bisson St., HULL  
(Secretary, English Section)

Marie-Paule Doyle (M<sup>me</sup>)  
22, rue Elgin, LUCERNE  
(Présidente, Section française)

Louis-G. Brillant  
34 rue Richard, HULL  
(Secrétaire, Section française)

## APPENDIX "DDD"

## CANADIAN CATHOLIC CONFERENCE\*

90 Parent Avenue, Ottawa 2, Canada.

## STATEMENT

of the

## CATHOLIC BISHOPS OF CANADA

on

## ABORTION

February 7, 1968

About a month ago, draft amendments to the Criminal Code were introduced in the Canadian House of Commons. One amendment would so change the law on abortion that a medical doctor, with the approval of a hospital committee, would be permitted to perform an abortion when continuation of pregnancy "would endanger, or would be likely to endanger, the life or the health of the mother".

With Parliament about to discuss a law of such serious consequence, careful study of the question is a duty of conscience for everyone, especially for doctors, lawyers, politicians and all who influence public opinion. Therefore we, too, must try to set before you as clearly as possible what we believe to be in harmony with Christian faith, moral norms worthy of man, and the requirements of civilized life. Our concern for the common good compels us to do this. While speaking primarily to Catholics, we hope to receive sympathetic hearing from all who want to serve the best interests of the Canadian people in the study of this grave and complex problem.

## ABORTION AND RESPECT FOR LIFE

*The Mind of the Church*

Although it did not deal at length with abortion, the recent Vatican Council repeated in general yet forceful terms the traditional teaching of the Church. "God, the Lord of life," it said, "has conferred on men the

surpassing ministry of safeguarding life—a ministry which must be fulfilled in a manner which is worthy of man. Therefore, from the moment of its conception, life must be guarded with the greatest care, while abortion and infanticide are unspeakable crimes" (Constitution on the Church in the Modern World, Art. 51). The Council's teaching, it is clear, condemns the direct taking of foetal life, but not treatments needed to save a mother's life even if they sometimes result in the unwanted and unsought death of the foetus.

No one should be surprised that the Church takes so firm a position on this question. Her words in this case are but a faithful echo of God's solemn and grave commandment, "Thou shalt not kill." They also give witness to the great law of Christian love (Rom. 13, 8-10). These words touch on something that is fundamental for any true civilization or real progress—respect for life and for the human person.

It is clear that this commandment of God obliges in conscience, no matter what legislation may be in force in a country.

*Must Respect for Man Apply to the Foetus?*

"The Church's principles," it is sometimes said, "are noble in themselves but do not take into account the basic difference between life in the womb and life after birth." This prompts us to make the following points which will clarify the Church's position on abortion.

First, we note that science has not established a fundamental difference between life in the womb and the child's life after birth. Instead, scientific findings lead us to look upon the whole development that begins with

\* The C.C.C. is the Association of the Roman Catholic Cardinals, Archbishops and Bishops of Canada.

conception as the slow, complex maturing process of a distinct individual, an autonomous biological reality progressing towards full human stature. Scientists even affirm that this individuality is already perceptible in the fertilized ovum itself, that is, from the time of conception. To be sure, it is difficult to determine the exact moment when we can be certain that the foetus is human. At least in the latter stages of its development there can be no doubt. A mother knows very well, long before giving birth, that her little one has become her partner in a secret dialogue in already-awakened human love. Mothers are not misled in this basic insight; they know that they bear not merely vegetable or animal life but a human offspring with the right to be recognized as such.

Moreover, for those who think they have good reasons to doubt the human character of the foetus in the early stages of its development, and therefore argue that abortion is legitimate in certain cases, we have a question: Since you too consider human life sacred, can you justify even the risk of taking a human life?

*Border-line Cases*

The question is sometimes asked: The Church advocates that the unborn be regarded as human and invites man to respect human life in its very origins. In so doing, does not the Church treat too lightly the very serious dangers that sometimes threaten the mother because of the new life within her? The question is asked as if the concern for the human person expressed and fostered by the Church were accompanied by an inability to grasp concrete situations and provide satisfactory answers to them.

We know the anguish felt by mother, husband and doctor when two equally innocent lives are in a mysterious conflict that involves risk of death for the mother, or at least danger of serious or permanent effects on her physical or mental health. When such cases occur, they are always difficult and sometimes tragic. But resort to abortion, because it involves the taking of innocent life, does not render the situation less tragic.

When the mother's life is truly in danger, we understand that there may be a temptation to consider abortion, even direct abortion, as justifiable. Nevertheless, we must point out that this view is contrary to a persistent Judeo-Christian tradition that life is

sacred. Likewise, to advocate abortion in order to protect something other than the very life of the mother, even if it be her physical or mental health, is to disregard the sacred right of the foetus to life; also, it is to sacrifice a greater value for a lesser one.

Besides, abortion itself often has harmful effects on the physical, mental and moral well-being of the mother. And it is also relevant that advances in medicine and psychiatry now make it possible to find positive solutions that respect life in many border-line cases.

Medical opinion is virtually unanimous that cases where a direct abortion is necessary to save the mother's life are fortunately so rare these days that their existence is becoming merely theoretical. Less rare, to be sure, is the case where a pregnancy may seriously and permanently endanger the mother's physical or mental health. At any rate, it certainly would be a false approach to think that solution of such border-line cases calls for legislative changes of the kind proposed.

ABORTION AND THE LAW

A bill to amend the law on abortion has been presented in the House of Commons. The issue is now something more than the morality of abortion. We must also consider what the state's role in this matter should be and, more precisely still, what one should think of the proposed amendments.

*The State, Protector of Life*

Effective protection of human life, especially of the weakest, is always a foremost duty of the state. Considering the complexity of modern living and the new and often hidden dangers that threaten life, this protective function of the state is today more important than ever. Through criminal law, police forces, control of public health and drugs, protection for children, social legislation and many other means, the state must strive today, even more than in the past, to fulfill effectively its role as protector of life. We note here, for example, the government's recent praiseworthy measures to assure greater traffic safety and better control over possession and use of firearms.

Everyone speaks of progress, and there is surely no one unwilling to promote it. But do we automatically have to accept as progress every measure made out to be, sometimes in

a rather peculiar way, a "liberalization" or a "broadening" of the law. When it is a matter of respect and protection of human life, progress does not lie in laxity but in ever more attentive and effective concern and vigilance. Progress in civilization, we say without hesitation, consists in the increasingly clear recognition of the dignity, sacredness and absolute inviolability of the human person, on both the theoretical and practical levels.

### *Consequences of the Proposed Amendments*

The proposed amendments on abortion are well known. According to the bill, those who procure an abortion would be liable, as in the past, to life imprisonment; but a qualified doctor would be allowed to perform an abortion if pregnancy endangered, or was likely to endanger, the life or health of the mother, provided the abortion was performed in an accredited hospital and a written certificate obtained from the hospital's therapeutic abortion committee. This brings us to the following considerations.

This amendment of the law not only allows the direct and voluntary taking of an innocent life but opens the door to the broadest interpretations. Through the press, radio and television we are already getting expressions of public opinion that show a clear and alarming decline in respect for the life of the unborn. Some, for example, see the amendment proposed in the House of Commons as only the first step towards official recognition of "abortion on demand". Others believe that the amendment, as it stands, already provides the possibility for abortion in a very large number of cases.

Such reactions are not at all reassuring. When we consider also what has happened in countries where similar legislation has been adopted, we can easily foresee what will happen here.

On this point, it should be noted that the parliamentary committee looking into the question acknowledged in its first report last December that there had not been sufficient study and investigation. We must ask, therefore, whether the Canadian people really have before them all the necessary information. Secondly, is it right for Parliament, without measuring through appropriate research the moral, psychological and sociological implications, to venture into new legislation on a problem of such grave consequence for man and for civilization itself?

### *Illicit Abortions*

Many who find the very idea of abortion repugnant still see some merit in the amendment proposed by the government. They think that the new law would significantly reduce the number of illicit abortions and their disastrous consequences.

With regard to illicit abortions, arbitrary unverifiable figures are produced which catch public attention simply by being repeated. To be sure, such abortions are too common; and they do have serious consequences. Every effort must be made to eliminate them. But the real question is what means should be used to bring about the desired result.

There is good evidence that it is only an illusion to expect that the proposed amendment will succeed in reducing the number of illicit abortions. Judging by the experience of countries with laws similar to the one proposed for Canada, we may justly fear the very opposite result. In fact, could it be otherwise? A law that lessens the right of the foetus to life by the exceptions it allows leads to a lax attitude that abortion is no longer a real crime. Lawmakers should never underestimate the educational value of law. Men are all too ready to consider as morally permissible whatever the law itself permits.

### *True Reform*

Progress, especially in human affairs, is rarely achieved by easy solutions. The proposed amendment is just that—a too-simple solution to a serious and complex problem. We have in mind a completely different approach. Respect for human life at all stages of development should be fostered through education and through laws that teach respect for life. A serious study of the frequency of illicit abortions and of means to eliminate them should be undertaken. Medical research should be encouraged. Real efforts should be made to provide mothers in distress with the medical and psychiatric care they need. There should be a more humane understanding of unwed mothers and their children and we should provide them with real help. Greater effort must go into the care of those afflicted by mental illness. More adequate social and family policies should be planned and developed with all seriousness and great generosity. The state must devote itself to a program of this kind. For our part, we call on the Catholic people to become active leaders and ardent collaborators in this common undertaking.

This is the way to real social progress and true freedom. For us only one approach is worthy of mankind, of civilization, and of Canada's spiritual mission in the world. That approach calls for creative imagination, not the all-too-easy imitation of other countries. It calls for ever-increasing respect for all human life, including the defenceless and most dependent.

During the recent parliamentary debate on capital punishment, this was said: "We can set an example of our respect for the sanctity of human life to a world that is sorely in need of a higher regard for human life and a higher standard of human conduct." These words, you will agree, touch the heart of the matter. They throw light on the present debate. May they also be its inspiration!

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## APPENDIX "EEE"

Submission to Chairman, Dr. Harry C. Harley, and to the House of Commons Standing Committee of Health and Welfare respecting the urgent question of widening those sections of the Criminal Code that apply to the legality of abortions.

Sally-Ann Kerman, President,  
Society for the Prevention of  
Cruelty to Man.

Perhaps the first thing I should like to clarify is that I began this entire brief on the other side of my argument and it was only because I was searching for answers to the anti-abortionists that I became one. I had some nagging doubts because I could not see how my own children could have at any time been part of my body when they arrived in this world as individual human beings with their own physical and mental characteristics. After all, every woman is entitled to her undeniable right to change her mind, and that is exactly what I have done. Since then, I have spoken to hundreds of women in every walk of life from cleaning women to judges and not one of them knew exactly *why* they wished more liberal laws on abortion, they just knew they did. At least I know why I do not and I have found that most of the abortionists are uninformed whereas most of the anti-abortionists are well informed. They have researched their stand for it is not easy to go against the tide of social reform no matter how overwhelming and destructive that tide is. It is not easy to watch your fellow man take a backward step in his process of evolution.

The Criminal Code of Canada has not been revised on the matter of abortion for one hundred years since its inception. Now, just a brief ten years before medical science will have the opportunity to break through on some of the most important and relevant discoveries in the fields of human embryology, men in Canada have decided to legalize abortion. It is often stressed that a law permitting abortion would be permissive! Those who do not believe in abortion would not be forced to have one and it would be available to those who find it acceptable. It is thus reduced to the same footing as birth-control, divorce, liquor and coloured margarine.

The proposed law allows abortion under certain conditions. This is a clear understanding that the foetus is human, an understanding arrived at by an acceptance of medical knowledge. If it was an acknowledged fact that the foetus is just a piece of tissue there need be no law at all.

There is no question in my mind at all that every member of the Health and Welfare Committee is fully aware of the irrefutable fact that the human foetus is every bit as much a member of the higher species known as mankind as the human baby. A great deal of medical evidence has been offered to the committee as proof of this and there are hundreds of text books and research papers in medical libraries that further attest to this fact. To those of you who are members of the Health and Welfare Committee who have no regard for medical science and do not believe that a human foetus is a living thing and just as much a human life or being as it is at birth, then to you I say, do not listen to the rest of this brief as nothing will apply to you or change your mind. But to you who are searching for the truth, who can believe fact when it is presented and who can reason logically, then think about the following facts.

I am sure you have all some idea of the union of a male cell with a female cell and the progress of the single cell formed from this union. In the book "Human Embryology" the author Bradley M. Patten describes the rapid growth of this new cell thusly: "In one week (After conception) the first two cells of the new life increase, two by two, to more than a hundred cells. On about the fourth day, the cluster of cells arrives in the uterus, where it continues to drift. By the week's end, the cluster becomes attached to the inner lining of the womb and remains firmly implanted there until birth. The womb is prepared to receive the cluster. It contains a watery fluid rich in sugars and salts. When the four day old cluster arrives in the womb, it is made up of about three dozen cells. This morula's cells resemble the earliest of cells of all creatures: invertebrates, fish fowl and mammal. However, with advent of intensive microscopy we have learned the human cells differ from these others, make them distinctly human and very much alive in these first few hours of life. The nesting of this cellular blob,

the division of the cells and the formation of a reasoning, functioning brain, heart, liver and other organs, even sex organs to reproduce the species some twenty years later, are all evident in the first few weeks of life as cellular growth becomes the main object of this new life". Such cellular growth is never evident to man at any other time unless of course one refers to malignant growth, where the same process occurs in reverse and the life force is broken down rather than built up. Science knows this much and yet this knowledge is infinitesimal compared to the many complexities as yet unknown. The next ten years will likely be the decade when much of this will be discovered and man shall surely be able to remove the foetus from the mother and transplant it into another body or a test tube and keep it alive. This is no time to kill it.

One could perhaps forgive a primitive society for occasionally aborting these unborn children, but not a society such as Canada's where we are conversant or at least should be with these facts.

Society refuses to accept the theory of private conscience when the death of a month-old baby is involved; it is a homicide. Medical science does not rely on conscience, but facts. The foetus, clearly human, is therefore entitled to the same protection as the month-old baby. As alarming as it may be that many of the public, who seriously advocate a widening of the present grounds for abortion, do not appear to be aware that the human foetus has its own genetic makeup and depends on a parent as much as a month-old child, it is scandalous that some of the members of the Health and Welfare Committee could actually advocate the brutal killing of this unborn child if such is the wish of the mother. It just doesn't seem possible that a well educated Member of Parliament in Canada could get this evidence by telephoning his family doctor and then vote for a law that would permit the deliberate killing of an unborn child. Surely if a mother should be entitled to abort her unborn child, she should be allowed to kill her year-old baby.

The very fabric of Canadian Democracy, in my opinion, has been woven to protect and preserve the right of life of all human beings who live within our borders. How could anyone who voted against capital punishment last year for those who were found guilty of killing another, turn around and seriously advo-

cate capital punishment for the most innocent of all children?

We don't even need medical evidence to show that the human foetus is as human as you or me or a newborn baby. If there is any consistency in logic at all, surely we must realize that if a doctor refuses to terminate our pregnancy and six or seven months later holds a naked, wailing baby right before our very eyes, we must then acknowledge that had he aborted that child earlier, he would have been killing a human being. No one could possibly say that a baby is not a human being at one stage of its development and fully a human being the next.

The proof however, goes even farther than this.

The private member's bills submitted by Mrs. Grace MacInnis, Mr. Ian Wahn and Mr. H. W. Herridge all advocate grave restrictions as to the conditions under which a woman may be entitled to obtain a legal abortion. If the MacInnis-Wahn-Herridge bills were simply to legalize the procedure of aborting a pregnant cow to obtain a commercially marketable product, they would not include clauses directing veterinarians to abort only when the health of the cow is in jeopardy, the farmer can't afford to properly maintain another calf or the bovine foetus may be a physical abnormality.

These distinguished members of parliament fully realize that the human foetus is *not* part of the human body and *has* every right to the enjoyment of life just as they themselves have this right. Hence they are very much aware abortion is in fact brutalization of the human race.

In her submission to the Health and Welfare Committee, Mrs. MacInnis made quite a telling point when she said (Minutes of Proceedings and Evidence, No. 1, Page 7) "Let me make it perfectly clear that no matter if I did want—which I certainly do not—members of Parliament or anybody else going to individual families and saying. "You will have this child. You will not have that child. I certainly do not want that. However, even if I did, there would be no earthly way of my getting it under the terms of this bill. That is the thing I wish to make clear."

So here we have a woman and member of parliament stating in positive and clear words that under no account would she ever attempt to tell people who may and who may not

"have this child." CHILD is her choice of words. Mrs. MacInnis must realize that what her bill proposes—with certain restrictions—is the cold and calculated killing of a foetus which is a member of the human race even though this "child" has not yet been born. In my opinion this is the next of kin to legalizing infanticide if the two-year old has a physical abnormality or is seriously affecting the mental health of the mother while it is dying of leukemia.

#### THE PHYSICAL AND MENTAL HEALTH OF THE MOTHER

One of the many arguments that arises is that the physical health of the mother is often endangered during a pregnancy and abortion would be the answer. Perhaps so, and to date many successful therapeutic abortions are carried out because of this. I have discovered many of these are performed with no hardship on the doctor where his morals are concerned and with no difficulty in interpreting the Criminal Code as it now stands on the subject. We only hear about the few who are having difficulty; not the many who do not. As for the mental health of the patient, if the case is such that the patient will no longer function because of the pregnancy and the ensuing birth, I doubt that the abortion will suddenly make this person whole again. During many cases of spontaneous abortion and therapeutic abortion performed here in Canada, doctors have found that the patient undergoes the same effects as she would have undergone had she had a full term delivery; i.e. "after-birth blues" and sometimes even lactation.

This is because the hormones progesterone and estrogen are lacking and the patient becomes as melancholic as a new mother or a menopausal matron whose hormones begin to defect. The process also occurs during abortion. How mentally healthy would the patient then be? Drugs can help but it is a fifty-fifty chance and those same odds prevail if the pregnancy were continued and not aborted, for medical science cannot prove the patient would become deranged if not aborted.

#### RAPE OR INCEST

For many centuries man has argued to pros and cons of what should be considered rape. I will refer to it as the unwilling attack on a woman where sexual intercourse occurs by a man who is a forensic criminal. It do not

consider a woman who answers whistles, then later decides she has bitten off more than she can chew, a rape victim. In the former instance, the woman or girl usually fights and fights hard for her virtue.

The incidence of pregnancy in these cases is not clearly documented except in reports from the Belgian Congo where rape of nuns is quite common. Pregnancy seldom occurs because conditions are not conducive to such a miracle in a once-in-a-lifetime situation such as this. For example, the woman must be fertile at that time, the sperm must be fertile, basal temperature must be right, there must be a complete entry (most rapists have a premature ejaculation) and then all the chemical wonders described earlier in this brief must take place. This is near impossible in the frenzied struggle between a panicky female and a lunatic male.

Should it, however, happen and should it happen here in Canada, I am sure the female would then seek medical help immediately. If she does so within five days after the attack, there will be no pregnancy for a curretage is done as standard procedure in any emergency ward where such a victim showed up. I am sure even the most traumatic of experiences allows the victim to recover within five days and know whether she has been raped or not. The act is no more violent or less violent in her mind six weeks later if she then decides she wants an abortion because she has been raped and now finds she is pregnant. Come now, as a woman and mother of a pre-teenage daughter, I cannot swallow that bit of nonsense. Either I have been raped or I have not and I would certainly not wait to find out if I am pregnant before deciding.

#### THE MALFORMED OR RETARDED CHILD AND THE HEREDITARY ILLNESS

Firstly I would like to point out that in checking with various doctors or medical texts on this subject, I find that evidence as to whether a foetus will develop into a retarded or malformed infant is rather vague. In the Thalidomide scare of a few years ago, only 30 per cent of the women here had deformed babies, and of this 30 per cent, only 10 per cent would probably have been deformed anyway because the pregnancy was complicated, and this is why the women needed the thalidomide to begin with.

There are many laws that need changing with regard to hereditary illness but I do not believe abortion is the answer. Birth control, yes; voluntary sterilization, yes; but do not abort these people on a slim chance that the unborn will breed further impurities. If we feel this strongly about the malformed, blind, or the retarded being such a burden to society then why not wait, see if they are born that way and then do away with them. "Oh!" you shout, that is inhuman, but I do not feel it is any more inhuman than what you propose to do just because the infant is not as well developed as you think or would like to think.

I know grown adults that are not as well developed as I am, yet they are the sweet, simple and pleasant people of this world and we need them too. I would not think of destroying them no matter how overcrowded the world became; and even in societies where cannibalism is practised these people are not killed and abortion is unheard of. Birth control is the only answer, not murder. If we must perfect the human race, let us do it another way. Let us learn to rehabilitate these people so that they can serve us in their own way.

Where will you draw the line in your selective breeding? Suppose this country changed its politics as well it might. In ten years, we shall probably have socialized medicine. Will the doctors be in control of the selective breeding or will the politicians? Are the doctors in control in Britain? Why are kitchen-table abortions increasing there? Who will be perfect and able to procreate the human race in the future? Will we all be black, white or green, Protestant, Jew or Hindu, and who shall decide that this is not criterion for breeding?

Attached hereto is the Declaration of the Rights of the Child which was adopted by the General Assembly of the United Nations in 1959. I refer to the second and third paragraphs of the Preamble. You will note: "Whereas the United Nations have, in the Universal Declaration of Human Rights, proclaimed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Whereas the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, *before as well as after birth*,...

The underlined sections are underlined by me for distinction of my point raised. Canada belongs to the United Nations and has just nine years ago endorsed this Declaration. The Vanier Institute for the Family has helped prepare this valuable document. I, as a Canadian was proud of this fact. I am not proud of our intent to violate it.

### UNWANTED CHILDREN

As for the unwanted children of women who feel they must have the "right" to their body, I can only say that precious few of us, here today did not become conceived because of planned parenthood. We all sort of "grew" on our parents as the first nine months of our development took place and by the time we arrived, everyone was adjusted to our existence. As a woman, I resent the use of the "right" when describing my body. I have the right to be my body unless I wish to destroy it, or tell someone how to dispose of it before or after death, or sell it for material gain. Now unless you also propose to legalize suicide, euthanasia, or prostitution, do not tell me legalized abortion will give a woman the "right" to her body. I do not have to have unwanted children because in the affluent society I live in, birth control is my answer. I pay for my birth control methods, but the welfare recipients do not, and so even the non-affluent in our society do not have to have unwanted children. Should birth control fail—and it is now 98% effective—I do not think that legalizing abortion for the failures is enough reason to liberally destroy many humans, some of whom will benefit society. I do not want to go into the discussion of some the world's famous "bastards" or people who have come up from the most impossible environments. We all know they exist, just as we all know there are hundreds that do not do anything but remain a blight to our society. Unless we are willing to murder the ones we have already established as "unnecessary" or "criminal" why pick on innocent unborn ones. I don't think we would have much use for social workers if we could solve all the world's problems with legalized abortion.

Those who oppose abortion are accused of a lack of sympathy for the woman. Equate sympathy for the woman and her circumstances,

which seem to require abortion, with the death of the foetus. The conditions for seeking abortion are temporary! The death of the unborn child is terribly permanent.

It appears to be a choice of complete compassion for the mother and complete death for the unborn or absolute lack of compassion for the woman and life for the child. The first example has no alternative, the second has. Inasmuch as society can contribute in softening the problems of the unwilling mother.

It is not just a question of an acceptable crime between consenting adults; a third person is involved. Whatever problems are raised by the presence of the foetus, they do not consist of death itself.

### EUTHANASIA

According to the Oxford Illustrated Dictionary, the definition of the word euthanasia is the bringing about of a gentle and easy death. I presume the manner of abortion desired by our reformers will be a gentle and easy death to the infant. Therefore it is a form of euthanasia. Will it stop here? Will it set a precedent for other forms of euthanasia or "mercy killings"? And might one of us in this very room have to decide on whether to "mercy kill" a loved one dying of cancer, an unborn grandchild not qualified to live because of defect or perhaps even ourselves because of incurable illness. I hope to God this never happens. And so I submit to you my argument against those bills which, if passed, will prove to generations of Canadians that even after one hundred years we often took backward steps.

### DECLARATION OF THE RIGHTS OF THE CHILD\*

#### *Preamble*

Whereas the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights, and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Whereas the United Nations have, in the Universal Declaration of Human Rights, proclaimed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, color,

sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Whereas the child, by reason of this physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth,

Whereas the need for such special safeguards has been stated in the Geneva Declaration of the Rights of the Child of 1924, and recognized in the Universal Declaration of Human Rights and in the statutes of specialized agencies and international organizations concerned with the welfare of children,

Whereas mankind owes to the child the best it has to give,

Now therefore,

The General Assembly

Proclaims this Declaration of the Rights of the Child to the end that he may have a happy childhood and enjoy for his own good and for the good of society the rights and freedoms herein set forth, and calls upon parents, upon men and women as individuals and upon voluntary organizations, local authorities and national governments to recognize these rights and strive for their observance by legislative and other measures progressively taken in accordance with the following principles:

#### Principle I

The child shall enjoy all the rights set forth in this Declaration. All children, without any exception whatsoever, shall be entitled to these rights, without distinction or discrimination on account of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family.

#### Principle 2

The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose the best interests of the child shall be the paramount consideration.

\* Adopted in 1959 by the General Assembly of the United Nations.

## Principle 3

The child shall be entitled from his birth to a name and a nationality.

## Principle 4

The child shall enjoy the benefits of social security. He shall be entitled to grow and develop in health; to this end special care and protection shall be provided both to him and to his mother, including adequate pre-natal and post-natal care. The child shall have the right to adequate nutrition, housing, recreation and medical services.

## Principle 5

The child who is physically, mentally or socially handicapped shall be given the special treatment, education and care required by his particular condition.

## Principle 6

The child, for the full and harmonious development of his personality, needs love and understanding. He shall, wherever possible, grow up in the care and under the responsibility of his parents, and in any case in an atmosphere of affection and of moral and material security; a child of tender years shall not, save in exceptional circumstances, be separated from his mother. Society and the public authorities shall have the duty to extend particular care to children without a family and to those without adequate means of support. Payment of state and other assistance toward the maintenance of children of large families is desirable.

## Principle 7

The child is entitled to receive education, which shall be free and compulsory, at least in the elementary stages. He shall be given an

education which will promote his general culture, and enable him on a basis of equal opportunity to develop his abilities, his individual judgment, and his sense of moral and social responsibility, and to become a useful member of society.

The best interests of the child shall be the guiding principle of those responsible for his education and guidance; that responsibility lies in the first place with his parents.

The child shall have full opportunity for play and recreation, which should be directed to the same purposes as education; society and the public authorities shall endeavor to promote the enjoyment of this right.

## Principle 8

The child shall in all circumstances be among the first to receive protection and relief.

## Principle 9

The child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be the subject of traffic in any form.

The child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental or moral development.

## Principle 10

The child shall be protected from practices which may foster racial, religious and any other form of discrimination. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood and in full consciousness that his energy and talents should be devoted to the service of his fellow men.

\* \* \*

APPENDIX "FFF"

OFFICE OF THE SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS  
CANADA

Ottawa, March 8, 1968.

Dear Dr. Harley,

Further to Mr. Martin's letter to you of February 21 concerning your request for information on abortion in a number of foreign countries, please find attached a summary of the information which has been obtained to date. The remainder will be forwarded to you when received.

Yours sincerely,

J. T. Devlin  
Departmental Assistant

Dr. H. C. Harley, M.P.,  
Chairman,  
Standing Committee on Health and  
Welfare,  
House of Commons,  
Ottawa, Ontario.

Summary of the information obtained by the Department of External Affairs on abortion in the following countries:

AUSTRIA

(a) *Legality:* Abortion is illegal except where a doctor certifies that the health of the mother would be endangered.

(b) *Statistics for*

- (i) legal abortions  
1964: 19,250  
1965: 18,676  
1966: 19,358

(ii) illegal abortions

No definite figure can be given. The opinion expressed by a specialist was to the effect that there is as many abortions as births, but the same specialist recognizes that there were widely differing opinions on this question.

<i>Births</i>	<i>Convictions in illegal abortions</i>
1965: 129,924	176
1966: 128,577	287

(c) Effects or complications of abortion:  
No statistics available.

(d) Effects on the birth rate and population control:

No opinion could be obtained.

CZECHOSLOVAKIA

(a) *Legality:* Abortion has been legalized by Act No. 68 Dec. 57. (copy attached) The approval of a district commission attached to local department of Health and Welfare is required. In 1966, 92% of the requests for abortion were approved.

The grounds for abortion are the following:

- (i) impairment to health.
- (ii) advanced age.
- (iii) at least 3 live children.
- (iv) loss of husband.
- (v) disruption of family
- (vi) threat to living standard where upkeep of family depends mainly on women.
- (vii) difficult position for unmarried woman.
- (viii) rape or other unlawful act.

(b) *Statistics on:*

- (i) legal abortions  
1962: 89,815  
1963: 70,546  
1964: 70,698  
1965: 79,591  
1966: 90,263  
1967: 97,000 approx.
- (ii) illegal abortions:  
as listed in the 1966

Statistical Yearbook

- 1963: 142
- 1964: 99
- 1965: 70

(c) Effects or complications following abortion:

Officially:

- (i) 1 death due to illegal abortion
- (ii) 5 deaths in legal abortion due to serious illness
- (d) Birth rate and population control:

Live births

1965: 233,000  
1966: 223,000  
1967: 215,000

The deteriorating birth rate has aroused national concern.

Detailed information will be found in the attachment under the title of "Zdravotnicka Statistika CSSR"—Statistics of abortions in Czechoslovakia.

FINLAND

(a) *Legality:* Under the terms of a law passed in 1950, abortion is legal

- (i) if there is a reason to believe that the pregnancy endangers the health or the life of the mother or
- (ii) if the child is likely to inherit some serious hereditary illness or defect.

Each case is investigated by two physicians operating under the national medical board—one of which must be a specialist in the disease of the pregnant women and the other a gynecologist.

Legal abortion can also be obtained on "ethical grounds" in case like incest and rape. Finally, the permission may be granted when the pregnant woman is less than sixteen years of age.

(b) *Statistics on:*

- (i) legal abortions  
1958: 5,274  
1960: 6,188 highest number recorded  
1965: 4,785
- (ii) illegal abortions  
No statistics are available

(c) Effects and complications following abortions and

- (d) Effects on birth rate.  
No statistics are available.

JAPAN

(a) *Legality:* Abortion in Japan is legal by virtue of the Eugenic protection law of 1948. (copy attached).

The object of this law is as mentioned in chapter 1—article 1 to:

- (i) prevent the increase of inferior descendants from the eugenic point of view and to
- (ii) protect the life and health of the mother.

Any gynecologist recognized by prefectural health authorities is authorized to perform abortion at his own discretion.

The legal grounds for abortion include:

hereditary psychopathis, hereditary body disease, hereditary malformation, mental disease, mental deficiency, leprosy, hereditary psychosis or other deficiency in a blood relative with the fourth degree of consanguinity, rape and protection of mother's health.

(b) *Statistics:*

(i) legal abortion declining since the peak of 1955 with approximately 1,170,000

1958:	1,128,231
1959:	1,098,853
1960:	1,063,256
1961:	1,035,329
1962:	985,351
1963:	955,092
1966:	Hereditary reasons ..... 273
	Hereditary deficiency in a
	close relative ..... 479
	Mother's health ..... 805,075
	Rape ..... 325
	Miscellaneous ..... 2,064

Total of 1966: ..... 808,216

Live births in 1966 numbered some 1,360,000

(ii) There are almost no illegal abortions

(d) Effects on birth rate:

Significant impact but as contraception is also widely practiced, it is difficult to determine which one is the most significant factor in maintaining low Japanese birth rate.

SWITZERLAND

(a) *Legality:* Provisions of Swiss criminal code substantially similar to sections 209, 237 and 238 of Canadian Criminal Code. But abortion is authorized upon certification of two doctors stating either that the mother's life would be endangered or that mother would suffer great permanent damage to her health through bearing of a child.

As the Swiss criminal code is applied by the 22 cantons there are in effect 22 interpretations of what constitutes severe and lasting damage to the potential mothers' health.

The Swiss code gives cantons options as to whether they wish to approve individually each recommendation for an abortion by a doctor or whether they are prepared to issue him a general authority to recommend abortion.

As Switzerland is a small country, women desiring abortions tended to go to more liberal centres but the centres concerned have adopted a stricter policy.

(b) *Statistics:*

(i) legal abortions:

As statistics on this matter are provided by the 22 cantons, the Canton of Bern which represents a fair balance between urban and rural population as well as between catholic and protestant, can be used roughly as an example for the entire country in multiplying by 6 the figures provided for Bern.

Bern	Applications made for abortion	Approved
1966:	1745	1074
1967:	1295	744

The average can be considered as being 1000 legal abortions a year—and for the entire country 6000 in comparison with a

population of 1,300,000 females between ages of 14 and 45.

(ii) It is believed that there are many times more illegal abortions than legal ones but no accurate figure can be produced. Many pregnant women would seem to take advantage of the more liberal legislation of some foreign countries. In the Canton of Bern in 1957, 12 illegal abortions were prosecuted.

(c) *Effects or complications:*

No statistic available.

(d) *Effects on birth rate:*

No statistic available.

U.S.S.R.

The Soviet Ministry of Health has indicated that there was no information available on the subject.

Although facilities for legal abortion exist, it would appear that illegal abortions are not uncommon.

WEST GERMANY

(a) *Legality*

Abortion is illegal except under certain conditions namely when pregnancy appears to endanger health and life.

No statistics are available for either legal or illegal abortions nor on the complications which may result from them.

\* \* \*

## APPENDIX "GGG"

2002 Arch Street,  
Ottawa 8, Ont.,  
March 1, 1968.

Dr. Harry C. Harley, M.P.,  
Chairman, House of Commons'  
Standing Committee on  
Health and Welfare,  
Ottawa, Ont.

Dear Dr. Harley:

Since we appeared before your committee last Nov. 7, I have reviewed some of the answers I gave at that time. Some of them, I find, do not express my true and considered opinions. I therefore wish to revise some of these answers, and ask that these revisions be placed on record.

First, I wish to retract an ill-considered statement that abortion might sometimes be defensible when a patient is judged to be suicidal. This was not only contrary to the argument of our brief, but unwarranted by any reliable evidence.

Dr. Brand assured me it was "in evidence" that abortion was sometimes "the only way" to prevent a suicide. I have since read through the committee's minutes and proceedings many times, and this is nowhere in evidence at all. On the contrary, practically all the evidence on this point confirms our original argument—that the risk of suicide is always doubtful and extremely remote. By contrast, abortion invariably means the certain death of the child.

If a woman is indeed suicidal, we believe she should have psychiatric care in hospital. There it should be possible to protect her until the danger is past. Abortion may be a more *convenient* procedure, but not the *only* way to save the patient—and, we believe, not an acceptable way.

I also wish to clarify my position regarding abortion to save a mother's life, on which I was closely questioned. Abortion for *any* reason is *morally* acceptable only if the end justified the means—a principle I strongly distrust. Nevertheless, one might defend a law to allow abortion when the mother would otherwise die. A law that forced a mother to die would benefit neither mother nor child, since both would die together.

In practice, though, the problem is not so clear cut. Notwithstanding some hypothetical cases posed to witnesses, it is practically never *certain* that abortion is the only way to save the mother; and where there is room for difference of opinion there is also room for abuse. Too often, it seems, abortion is used as a *convenient* method of treatment rather than a *necessary* one. I therefore make no apology for urging better enforcement of our abortion laws, inside as well as outside hospitals.

I was also asked about ways of reducing the large number of criminal abortions. I should have stressed what I now regard as a most important answer—public education. When we appeared before your committee we failed to appreciate the extent of public ignorance concerning the basic fact of abortion—that it destroys human life. We naively assumed that most educated people knew, or could easily recognize, that human life begins at or about the time of conception. But the minutes of subsequent hearings, along with other observations, have shown that we were wrong.

We regard the following comment by Dr. H. Brody, on page 273 of your committee's minutes, as especially significant: "Generally woman does not regard the embryo in the early months as a living entity and she therefore views abortion in the first three months of pregnancy as an extension of birth control."

Our own experience shows that attitudes toward abortion can be changed by patiently demonstrating that abortion does, in fact, destroy human life. We recognize, of course, that people strongly and publicly committed to so-called "liberal" views on abortion may never admit this fact. As a last resort they may take refuge in the evasive argument that abortion only destroys "potential" human life. But whatever an unborn child may be potentially, it still must be something *actually*: and what can it *actually* be except a human being?

The brief of Dr. J. A. Shanks (page 519), which specifically attacks our organization, exemplifies the obscure logic sometimes used to rationalize abortion. Dr. Shanks arbitrarily chooses "viability" as the distinguishing mark

of true human life; until a fetus is viable, he says, its life is indistinguishable from that of a fungus or a plant. But how viability could distinguish a human being from a fungus is not clear; for a fungus is "viable" from the very beginning of its existence.

If education can reduce the number of criminal abortions, it stands to reason that pro-abortion propaganda can *increase* them. And this, we believe, places a heavy responsibility on the press, radio and television. When we were before your committee, Mr. Allmand said abortions had increased since the end of the Second World War; if this is true, then the increase has coincided with the propaganda push for abortion on demand which began some 20 years ago.

With regard to so-called "Statistics" on criminal abortion, I attach a copy of a letter from Det. Sgt. William Quennell of the Metropolitan Toronto Police Department. This officer has been cited as the authority for an estimate of 35,000 criminal abortions in all of Canada; the attached letter was in reply to a direct query about these estimates.

One witness, Mrs. Lore Perron, suggested that doctors endorsed these figures. Also attached is a copy of a letter from the Canadian Medical Association which casts grave doubt on this suggestion.

I also attach a copy of a letter I wrote to Police Director Jean-Paul Gilbert of the Montreal Police Department, concerning the letter he sent to your committee (minutes of proceedings, page 477). Unfortunately, Director Gilbert has refused to answer any of my questions. According to a recent reply from Mr. Guy Tardif on his behalf, "It is felt it would not be proper to supply information to other persons or organizations than the Harley Committee."

I am sorry we were never questioned about the "battered-child syndrome" mentioned at other hearings. First, I would challenge the unsupported assumption that battered babies were all originally *unwanted* babies. It would be just as logical to assume that all divorces are the sequel to forced weddings. It should be noted, too, that there are battered wives as well as battered children. Do we assume that these women were all unwanted when their husbands married them?

Even from a "liberal" viewpoint, then, the battered-child syndrome is a poor justification for relaxing our abortion laws. However, if it

could justify abortion, it could just as reasonably justify euthanasia for battered children. Whether or not you would shrink from euthanasia is not the point; it is dangerous to adopt any position unless you are willing to accept its logical implications.

On page 233 of your committee's minutes, Mr. Enns criticizes the suggestion that legalized abortion could be used by the state to regulate births. He refers to Nazi Germany, where stiff penalties were imposed for abortion; but he fails to note that these penalties applied to abortions performed on *German* women. In his well documented book, *The Rise and Fall of the Third Reich*, William L. Shirer notes that abortion was *encouraged* for Slavic women.

In Chapter 27 of his book, Shirer quotes the following excerpt from an official summary of a letter from Martin Bormann, Nazi party secretary: "...The fertility of the Slavs is undesirable. They may use contraceptives or practice abortion—the more the better."

Finally, we hope the members of your committee now have all found time to read our brief presented last November. When we appeared before the committee we assumed they were all familiar with it; but we since have learned that they were not. Moreover, one member later told me he had not read the brief at all.

If the members of your committee have no time for a careful study of all the briefs presented, we respectfully suggest they are much too busy to give this serious issue the attention it requires.

Yours sincerely,  
Philip L. Cooper,  
Ottawa Representative,  
Emergency Organization  
for the Children.

M. S. Hurst  
Fire Marshal

DEPARTMENT OF THE ATTORNEY  
GENERAL

Office of the Fire Marshal  
204 Richmond St. West, Toronto 1

January 11th, 1968.

Mr. Philip Cooper,  
2002 Arch Street,  
Ottawa 8, Ontario.

Dear Sir:

In reply to your letter dated January 4th, 1968, requesting information regarding abor-

tion and maternal fatalities, I submit the following.

The figures as laid out in your letter were statistics published in a local newspaper in 1966. I believe that the figure of 35,000 abortions represent the natural miscarriages, natural abortions and criminal abortions. This would also apply to the figure of 300 deaths, resulting from the previously mentioned causes.

For further reference, I would recommend you peruse the article "They Die Smiling—Criminal Abortion", which appeared in the Canadian Medical Review, 1962.

Yours sincerely

Wm. K. Quennell, Det/Sgt.,  
Metropolitan Toronto Police  
Department, Arson Squad.

THE CANADIAN MEDICAL  
ASSOCIATION

150 St. George, Toronto 5, Ontario, Canada

From the Office of:  
Assistant Secretary  
D. M. Aitken, M.D.

5th February, 1968

Mr. Philip L. Cooper,  
2002 Arch Street,  
Ottawa 8,  
Ontario.

Dear Mr. Cooper:

I am replying to your letter to the Editor of the Canadian Medical Association Journal, regarding deaths from abortions.

I am not familiar with the estimate of 300 deaths per year in Canada and, to my knowledge, this has never been quoted by us. The only reference that I can find which would bear on this topic is in the Ontario Medical Review, October 1965 in which Connell & Noonan quote the Ontario statistics regarding maternal deaths and note that in the years 1958-63 septic abortion caused 20.9 per cent of direct maternal deaths. However, the actual

number of these deaths never exceeded 15 in a year.

I hope this will be of assistance to you.

Yours sincerely,

D. M. Aitken, M.D.  
Assistant Secretary.

2002 Arch Street,  
Ottawa 8, Ont.,  
Jan. 27, 1968.

Police Director Jean-Paul Gilbert,  
Montreal Police Department,  
Montreal, P.Q.

Dear Mr. Gilbert:

According to the Canadian Press, you have informed the Harley Committee that only four cases of criminal abortion were known to your department in 1966 and only six in 1967. Yet, you quote hospital authorities in Montreal as saying "hardly a day goes by without a woman coming or being brought to the hospital after an attempted abortion."

This raises several important questions, and I should be most grateful if you could answer them for me:

(1) Are hospital authorities not obliged by law to report any suspected crime to the police? Would it not be an offence for them to conceal a criminal abortion from your department?

(2) If the answer to this question is yes, then how do you explain the discrepancy between the number of abortions known to your department—four in 1966 and six in 1967—and the several hundred or more supposedly known to the hospital authorities?

(3) Did the authorities you mention state specifically that these were all *criminal* abortions, or were they also referring to natural miscarriages?

(4) How many deaths from criminal abortion have been reported to your department within the past five years, and when?

I am seeking this information on behalf of a citizens' organization deeply concerned with this important problem. Any information you can provide would be much appreciated.

Yours sincerely,  
Philip L. Cooper

## APPENDIX "HHH"

## THE NATIONAL COUNCIL OF WOMEN OF CANADA

Head Office

190 Lisgar Street, Ottawa 4, Ontario

March 8, 1968

Dr. Harry C. Harley, M.P.,  
Chairman,  
House of Commons Committee on  
Health and Welfare,  
OTTAWA.

Dear Dr. Harley,

When making the presentation to the House of Commons Committee on Health and Welfare on December 8, 1967, the representatives of The National Council of Women of Canada were not in a position to make specific recommendations as to the circumstances in which termination of pregnancy should not be a criminal offence.

The Executive Committee—which includes representatives from local and provincial councils of women and nationally federated organizations—met in Ottawa on January 30 and 31, 1968 and gave unanimous approval to the following recommendations:

That

- (a) All sections dealing with abortion be deleted from the Criminal Code;
- (b) A Termination of Pregnancy Act be enacted to provide for the lawful termination of pregnancy where:

(1) The life or health of the mother is endangered by the continuance of the pregnancy.

(2) There are reasonable grounds to believe that the child to be born would be born with incapacitating physical defects or grave mental deficiencies.

(3) There are reasonable and probable grounds to believe that the pregnancy has been caused by the commission of an offence under sections of the Criminal Code including: rape (sec.135); sexual intercourse with a female under 14 (sec.138); sexual intercourse with an idiot or imbecile, a feeble-minded or insane person (sec.140); incest. intercourse under restraint, duress or fear (sec.142); seduction of females between the ages of 16 and 18 (sec.143); seduction under promise of marriage (sec.144); enticing females into prostitution (sec. 184); abduction of females under 16 (sec.234).

In drafting your report it is hoped these recommendations will be considered, along with the views expressed in our formal presentation.

Yours sincerely,

Miss S. M. Steadman  
Corresponding Secretary

## APPENDIX "III"

DR. HENRY FITZGIBBON

Penticton, British Columbia, Canada

7th February 1968.

Dr. Harry C. Harley M.D., M.P.,  
Chairman,  
Standing Committee on  
Health & Welfare,  
House of Commons,  
Ottawa, Ontario.

Reference Bills C-122, C-136.

Dear Dr. Harley,

I have only just had the opportunity to read the evidence of the hearings on the above bills given before your committee and indeed as of this date have not received any transcript later than the "Minutes of Proceedings and Evidence No. 13: (Up to Tuesday December 12, 1967.)"

I have the temerity to address you on this subject as in my opinion based on the evidence so far as I have had an opportunity to peruse, it does not cover an aspect of the problem of abortion, which I consider, should be brought to the notice of the members of your committee.

I write as a practising Obstetrician and Gynaecologist of experience not only in Canada but also in Ireland and in England. I therefore feel that I may be able to put forward some views which may not be readily available to witnesses who have appeared before the Committee to date of December 12th.

May I elaborate upon my background for your information. I am a British Citizen born in Ireland and baptized into the Church of Ireland (disestablished Protestant Religion). My obstetrical training was in The Lying In Hospital in Great Britain Street, Dublin. (The Rotunda.) This hospital situated in the midst of a predominantly Roman Catholic population has attended to the obstetric care of the area for the past 223 years and in my day was almost completely staffed by Doctors, who were not of the Roman Catholic persuasion. For the successful operation of the Hospital it was essential that the religious tenets of the population be respected down to the

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least details. In this area we supplied domiciliary care (The "District") and this was my first appointment as extern assistant Master in 1945. More than half of the calls put in to me from Doctors, Nurses and students on call had to do with the problem of abortion. Calls made on those days amounted to about 2000 (two thousand) per annum. I regret that at the time of writing I do not have the actual figures but the reports of the Rotunda Hospital are available in The Obstetrical Department of the University of Western Ontario on permanent loan from me and they would be pleased to verify figures on your request, I have no doubt.

I was subsequently Registrar for the year of 1946 in The Woman's Hospital, Sparkhill, Birmingham England. Where one of our wards was devoted exclusively to the care of Obstetric Post-partum cases who had developed sepsis either at termination of a term or an earlier period of pregnancy we drained the whole city and the hospitals providing Obstetric care so had a large number of abortions transferred to our septic ward in various states of well/illbeing.

I returned to Dublin and served as Assistant to the Master of The Rotunda for three years. The report for 1965 shows 431 cases of Deliveries before the 28th week and I doubt that to be higher than the average for the years 1947-1950. (again this can be checked through U.W.O.)

I came to Canada in 1955 and in 9 years' practice in Brantford, Ontario, I attended 105 cases of incomplete abortion personally. I was one of the specialists who responded to the questionnaire sent to the Obstetric and Gynaecologic Specialists of Ontario in 1964. This asked specific questions of the Specialist group, and I am not aware as to whether the extra remarks inserted by such as me were included and reported in the Findings. (Your evidence page 97 refers.) I feel it pertinent here to remark that when the Section was discussing recommendations as regards changes in the Criminal Code re Abortion it had not gone on record as approving the removal of restrictions against Contraception

from the Code. This was duly rectified on my motion at that meeting.

I am a member of the Canadian Society of Obstetricians and Gynaecologists a Certified Specialist in Obstetrics and Gynaecology of the Royal College of Surgeons of Canada and a Fellow of the American College of Obstetricians and Gynecologists, a member of the Family Planning Federation and registered with the College of Physicians and Surgeons of British Columbia, the British Medical Council and Irish Medical Council. The views that I attach herewith have nothing to

do with any of the Society's or associations to which I belong and are purely my own put forward in the hopes that they may help in the difficult task you have been asked to carry out on behalf of the Canadian people, in recommending suitable legislation to the Government despite their action vis-à-vis Mr. Trudeau's "Omnibus Bill" on the criminal Code.

I have the honour to be, Sir,

Henry FitzGibbon, M.D., M.A.O.,  
F.A.C.O.G., C.R.C.S. (C.), M.P.H. etc.

Submission to the Standing Committee on

# HEALTH AND WELFARE of THE HOUSE OF COMMONS

by

Henry FitzGibbon M.D., M.A.O., F.A.C.O.G.  
C.R.C.S.(C.), M.P.H., etc.

Ladies and Gentlemen, having carefully read the Minutes of Proceedings and evidence of your standing committee inquiring into the subject matter of the Bills to amend the criminal code with respect to Abortion I should like to submit the following view points which have not appeared in any of the briefs published up to and including the evidence of Tuesday December 12th, 1967.

As a practising Obstetrician it has often been my unhappy lot to have to confirm pregnancy in a woman, who was not desirous of being in that state. I have also frequently seen in consultation women who knowing that they were pregnant were desirous of advice as to what action they should take on account of their state.

In common with the distinguished members of the Medical profession you have interviewed, I consider the operation of termination of Pregnancy in the previable period, to be repugnant to human nature and not one to be lightly undertaken under any circumstances.

Very often the shock of recognizing that she is pregnant at an undesirable time is such that the woman immediately requests advice as to how she may get rid of the unwanted foetus. However frequently such women after consideration decide that they will continue with the pregnancy and subsequently are pleased and proud of their decision.

Also, frequently alas, after full discussion of the problem and consideration of the advice offered that they should allow the pregnancy to proceed the patient decides that she is going to have an abortion performed and that if the Medical Profession will not or cannot help her she will resort to a so-called illegal Abortionist.

Unfortunately there appears to be little difficulty in finding out, from some more knowledgeable friend, where such an operator can be contacted.

What is the approach of the professional abortionist? Irrespective of his skill, training or professional standing; by the nature of his activities, money is the prime criterion and seldom does he attempt to dissuade the applicant if she has the necessary funds! The recent case of prosecution in Vancouver points this up well. Despite the remarks of the Trial Magistrate, Dr. McCallum was charging a fee of \$300 while the schedule of minimum fees of the British Columbia Medical association, item 4111 "Therapeutic Abortion", allows \$80.00.

If it is possible for the Doctor who is first consulted in this situation, to advise his patient, and then in the face of her resolution to refer her to a colleague who will again attempt to dissuade her from this course, but if she remains adamant, to recommend that the pregnancy be terminated in a proper institution with proper care and facilities,

then the profession will have achieved its purpose of giving sound advice, and attempting to provide prophylactic care for its patients.

As has been repeatedly pointed out at the hearings there are no longer any valid reasons for the termination of pregnancy on medical grounds. The requests for abortion made to practising physicians are almost invariably on social grounds and as such are not covered by any of the suggested Bills. All too often it is a matter of failure of contraceptive method and here let me point out that the Family Planning Association in Great Britain states that only 10 per cent of those using Contraception have had any professional advice thereon by those who are *au fait* with modern contraception and the advances therein. (B.M.J. 1965, 2.)

Professor Cannell and the other distinguished law-breakers (page 104, Dr. Brand.) though criminal abortionists (idem Mr. Stanbury.) are working in very large hospitals and of such standing that they cannot be compared to those Specialists who are tackling these problems in the smaller towns and centres, nor can the anonymity of the large hospital operating list be correlated to that of the hospital with limited technical staff to man the operating room! Great progress has been made in allowing sexual activities and their results become respectable, but there is still a long way for us to go yet before it is accepted common small town knowledge that so-and-so had an abortion performed by her Doctor, no matter what grounds there may have been. It is then essential that the stigma be lifted from this surgical procedure and curettages be performed without the leave of committees or specification of the reason for the operation.

The woman who seeks abortion has been shown in other cultures than ours, to be receptive to the idea of contraception (Chile. Requena IPPF Medical Bulletin, 1.6, 1967.) and it is probable that the same factor would apply to women in this country. We should therefore attempt to care for them during the "failed pregnancy" with a view to protecting them from a further unwanted pregnancy in the future. With the advent of the long acting injectible contraceptives at hand this is an ideal opportunity for them to be introduced to reliable contraception before they are discharged home after termination of the pregnancy.

Much time has been spent by the committee in endeavouring to find out when those individuals appearing before them consider that life has started. In dealing with large numbers of Roman Catholic patients on the Rotunda Hospital wards and district, it was obligatory for us to baptize some portion of the products of conception in an abortion, and even a foetus in utero should there be danger of death this was sufficient to care for the soul of the conceptus and the same would appear to hold good in these days of disregard of "human Dignity" in dying. In St. Joseph's Hospital, Brantford, Ontario where I had the honour to be Chief of Obstetrics, the products of conception which were retrieved after an abortion were buried by one of the Laboratory staff on her own initiative in inhallowed ground near the Hospital. (Mr. Enns; evidence page 337,i.)

I wish to suggest, as I noted in the questionnaire returned to Dr. Cannell in the Ontario investigation (Mrs Lefcoe, evidence page 408.ii.), that "Abortion" be removed from the Criminal Code and be aligned with other operations and decisions which the Medical Profession from the time of its inception have had to make!

Assuming that the aim and intent of the proposed legal changes are to prevent the loss of life, health and fertility of women at the hands of the unlicensed abortionist, let it be introduced into the Criminal Code that it shall be illegal for anybody other than a properly recognised practitioner of the healing arts to perform any operation or treatment for monetary or other tangible reward.

If the above suggestion be accepted it will not involve any pregnant woman in the feeling that she must be subjected to undesired abortion as was suggested in discussion. No doctor will feel that he has to deal with the solution of a matter that is repugnant to him. The full power of the law will be able to be utilised against those who are maiming our women of childbearing age.

The argument has been used that where there is a permissive attitude, there is likewise an increase in the number of illegal abortions, this is true where there is merely a broadening of reasons that will be accepted by a committee. The evidence now coming from Japan is to the effect that contraception is becoming the method of choice of limitation of families and is now utilised in 60% rather than the previous 100% by abortion.

From the point of view of an actively engaged obstetrician, the number of women who appear and demand abortion for unwanted pregnancies is already high and is not likely to be increased to any great extent by removal of the restrictions. Those who will be saved from having the operation proceeded with will be very great and those that will be able to continue a normal healthy and useful existence having babies when they so desire will be increased.

As has been mentioned by almost all of those appearing before the committee, the best and most satisfactory solution from every viewpoint lies in more education in the entire human reproductive and sexual area and especially in the dissemination of information and facts (true ones) about contraception.

The last statement is so urgent that it should be made a matter for action at the Federal level, not as and when the various Provinces so desire, but should be grafted to the Health services of the Dominion as soon as possible. I believe myself to be the only member of the specialist group of Obstetri-

cians and Gynecologists of Canada who has taken a higher degree in the subject of Population studies, but knowing my colleagues and the work they have done though illegally in this field, I have no doubt than an excellent service in the field of public health designed to prevent ill-health by prophylaxis could be inaugurated in a very short time as whole-time Federal Officers in prevention of sexual ill health.

Finally I should like to state the feeling of distaste at the attitudes of many members of the committee towards those who have had the courage to come before them to state the beliefs that they hope will benefit some of their fellow humans, which has arisen in me from time to time as I have read these minutes. Similarly the correct titles and names of those to whom reference is made in the minutes would appear to be common if not parliamentary politeness!!.

I would be interested to know the truth of the statement by Mr. Allmand on page 431 column 2, as to passing a bill on birth control through the house; is this fact or another broken promise by our legislators!!!

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Association for the Modernization of Canadian Abortion Laws.....	AMCAL
Canadian Abortion Law Reform Association.....	CALRA
Canadian Bar Association.....	CBA
Canadian Catholic Conference.....	CCC
Canadian Labour Congress.....	CLC
Canadian Medical Association.....	CMA
Canadian Welfare Council.....	CWC
Catholic Hospital Association of Canada.....	CHAC
Catholic Physicians Guild of Manitoba.....	CPGM
Emergency Organization for the Defence of Unborn Children.....	EODUC
Family Institute of Montreal.....	FIM
Family Planning Association of Montreal.....	FPAM
Family Planning Centre.....	FPC
Family Service Centre of Ottawa.....	FSCO
First Unitarian Congregation of Ottawa.....	FUCO
Humanist Fellowship of Montreal.....	HFM
London Society for the Protection of the Unborn.....	LSPU
National Council of Women of Canada.....	NCWC
Ottawa Committee for the Defence of Unborn Children.....	OCDUC
Presbyterian Church in Canada.....	PCC
Right to Life Committee.....	RLC
United Church of Canada.....	UCC
Women's Liberation Group.....	WLG

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Petitions and letters from intermediary bodies, associations and individuals supporting the brief of the Family Institute	The Family Institute of Montreal	Feb. 1, 1968
A booklet entitled "Mothers' Aid in Denmark"	United Church of Canada	Feb. 6, 1968
A booklet entitled "Therapeutic Abortion and The Law in Sweden"	United Church of Canada	Feb. 6, 1968
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OFFICIAL REPORT OF MINUTES  
OF  
PROCEEDINGS AND EVIDENCE

This edition contains the English deliberations and/or a translation into English of the French.

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Translated by the General Bureau for Translation, Secretary of State.

ALISTAIR FRASER,  
*The Clerk of the House.*









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